

Sala Nammbwe and Yvette Nimenya vs.  
Smithfield Foods, Inc.

Sala Naamwbe  
May 24, 2018

<p style="text-align: center;">1</p> <p>1 UNITED STATES DISTRICT COURT DISTRICT OF SOUTH DAKOTA SOUTHERN DIVISION</p> <p>2</p> <p>3 *****</p> <p>4 SALA NAAMBWE and YVETTE NIMENYA,</p> <p>5 Plaintiff, Case: 4:17-cv-04123-LLP</p> <p>6 vs.</p> <p>7 SMITHFIELD FOODS, INC., Boyce Law Firm Sioux Falls, SD May 24, 2018</p> <p>8 Defendant. 8:45 a.m.</p> <p>9 *****</p> <p>10 VIDEOTAPE DEPOSITION OF</p> <p>11 <b>SALA NAAMBWE</b></p> <p>12 *****</p> <p>13 <u>APPEARANCES</u></p> <p>14 Ms. Stephanie Pochop Johnson, Pochop &amp; Bartling Gregory, South Dakota</p> <p>15</p> <p>16 Attorney for the Plaintiffs</p> <p>17 Ms. Andrea R. Calem Hunton Andrews Kurth LLP Washington, DC</p> <p>18 Attorney for the Defendant</p> <p>19</p> <p>20 Also present: Yvette Nimenya Scott Reed, Smithfield Foods, Inc.</p> <p>21</p> <p>22 REPORTED BY: Suzanne M. Brudigan, RPR</p> <p>23 INTERPRETER: Elias Sindayikengera, A to Z World Languages</p> <p>24 VIDEOGRAPHER: Doug Gerash, Village Media</p> <p>25</p>	<p style="text-align: center;">3</p> <p>1 INDEX OF DEPOSITION EXHIBITS (Cont'd)</p> <p>2</p> <p>3</p> <p>4 Exhibit 24 -- Smithfield Employee Warning Notice 226</p> <p>5 Exhibit 25 -- Copy of photograph 256</p> <p>6 Exhibit 26 -- Designation Notice (FMLA) 267</p> <p>7</p> <p>8 * * *</p> <p>9 Naambwe Deposition Exhibits 14-26 were retained with the original transcript. The original transcript was provided to Ms. Calem.</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: center;">2</p> <p>1 INDEX OF EXAMINATIONS</p> <p>2 Examination by Ms. Calem Page 6</p> <p>3 *****</p> <p>4 INDEX OF DEPOSITION EXHIBITS</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: center;">4</p> <p>1 S T I P U L A T I O N</p> <p>2 It is hereby stipulated and agreed, by and</p> <p>3 between the above-named parties through their</p> <p>4 attorneys of record, whose appearances have been</p> <p>5 hereinabove noted, that the videotape deposition</p> <p>6 of <b>SALA NAAMBWE</b> may be taken at this time and</p> <p>7 place, that is, at Boyce Law Firm, LLP, Sioux</p> <p>8 Falls, South Dakota, on the 24th of May, 2018,</p> <p>9 commencing at the hour of 8:45 a.m.; said</p> <p>10 deposition taken before Suzanne Brudigan, a</p> <p>11 Registered Professional Reporter and Notary</p> <p>12 Public within and for the State of South Dakota;</p> <p>13 Objections, except as to the form of the</p> <p>14 question, are reserved until the time of trial.</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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<p style="text-align: center;">13</p> <p>1 Q. Did you talk to Tom Anderson about what questions 2 you might be asked today?</p> <p>3 A. No. Why should I ask him?</p> <p>4 Q. I'm asking if you spoke to him about any 5 questions you might be asked.</p> <p>6 A. No, I didn't.</p> <p>7 Q. Did you speak to BJ Motley about any questions 8 you might be asked?</p> <p>9 A. No, didn't.</p> <p>10 Q. Did you speak to any member of the union about 11 this deposition?</p> <p>12 A. No.</p> <p>13 Q. Apart from the conversation with your lawyer, did 14 you talk to anybody about what kinds of questions 15 you might be asked?</p> <p>16 A. No one else.</p> <p>17 Q. We received a number of documents from your 18 lawyer that you and Ms. Nimenya produced in 19 response to our document request.</p> <p>20 A. Okay.</p> <p>21 Q. Do you have any other documents in your 22 possession that are related to the claims you've 23 made against the company that have not already 24 been produced to us?</p> <p>25 INTERPRETER: She is asking the question</p>	<p style="text-align: center;">15</p> <p>1 to Scott Reed, and then Scott Reed promised them, 2 the employees, that he was going to call each 3 individual for investigate -- for investigation. 4 And she has that letter which was written by the 5 employees, she has a copy of it. That is the 6 document she has besides maybe what you have.</p> <p>7 Q. All right. Well, we would definitely want to see 8 that as part of the production.</p> <p>9 Can you tell me what union person asked you 10 to write everything down?</p> <p>11 (Sotto voce discussion between witness and 12 interpreter.)</p> <p>13 INTERPRETER: She want to go ahead, explain 14 translate -- speak on her own in English.</p> <p>15 MS. CALEM: Okay.</p> <p>16 A. (In English) I'm sorry for my broken English. 17 Q. Your English is fine.</p> <p>18 A. (In English) I'm sorry. So it wasn't because 19 sometime, you know, when he speak, sometime he 20 don't speak, you know...</p> <p>21 So it wasn't union. It was employees inside 22 the department. They tell about harassment, 23 embarrassment, yelling, so they decided to 24 sign -- to write note and to sign it so they can 25 send to Scott Reed. So I am union in that</p>
<p style="text-align: center;">14</p> <p>1 because you say you have the document from her 2 lawyer so she want to know, do you need more 3 document from me or from lawyer?</p> <p>4 MS. CALEM: No. I just want to know if 5 there's anything else that she has, any notes, 6 any, maybe she kept a journal or a diary, 7 anything that she did not already give to her 8 lawyer to give to us.</p> <p>9 INTERPRETER: She has a paper one time I 10 think it was in a company, their -- their union 11 guy he came and gather all the employees together 12 and he ask them -- he asked all the employees to 13 write down any misconduct or any sexual 14 harassment happening in the company. He asked 15 each individual to write down anything that they 16 know of so she wrote it down on that paper and 17 then the union --</p> <p>18 THE WITNESS: I'm sorry.</p> <p>19 (Sotta voce discussion between witness and 20 interpreter.)</p> <p>21 INTERPRETER: Okay. Sorry, I misunderstood. 22 So she said one time they asked -- they asked all 23 the employees to write down mistreated, like 24 mistreated, anything that -- that is along 25 mistreated. So they wrote one letter and it took</p>	<p style="text-align: center;">16</p> <p>1 department so they give me this paper and I take 2 it to union and I give to BJ, and BJ asked a copy 3 and BJ take it and give -- he give to Candice. 4 And Candice, she report to Scott Reed, and Scott 5 Reed, he responded that he's going to call each 6 one on each time. But they call only one person, 7 his name is Terry, is he Number 1. That's the 8 only call and he went down to explain about 9 bucket, sit down --</p> <p>10 COURT REPORTER: About what?</p> <p>11 THE WITNESS: (In English) Bucket. Bucket.</p> <p>12 COURT REPORTER: Bucket?</p> <p>13 THE WITNESS: Yeah.</p> <p>14 COURT REPORTER: Okay.</p> <p>15 A. -- because you got a medical problems, he want to 16 sit down on bucket but the supervisor, he didn't 17 let him to use that bucket. That's all he went 18 to complain.</p> <p>19 Q. Okay. Is this the letter that was written about 20 Lisa Christion?</p> <p>21 A. (In English without translation of question) 22 Yes.</p> <p>23 Q. All right. We do have a copy about that.</p> <p>24 A. (In English without translation of question) 25 Okay.</p>



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1 Q. And that just happened recently, right?

2 A. (In English without translation of question)

3 Exactly.

4 Q. So I do have that and I'll -- actually I can pull

5 it out.

6 Why don't we mark this, please. And we're

7 just going to continue marking from yesterday.

8 COURT REPORTER: Exhibit 15?

9 MS. CALEM: Let's see. Actually we did not

10 use this yesterday.

11 Can we make the next one 14 and get rid of

12 that 14.

13 (Naambwe Deposition Exhibit 14 marked.)

14 MS. CALEM: And if you would hand that to

15 her, please.

16 COURT REPORTER: (Complies.)

17 BY MS. CALEM:

18 Q. So in this case, is this the letter you're talk

19 about that's Exhibit 14?

20 A. Yeah, because you asked me for have any document.

21 That's the only document.

22 Q. Okay. Perfect. I understand. And this is a

23 document that is in your writing, correct?

24 A. No.

25 Q. The "Dear Management" part, that's not your

18

1 writing?

2 A. (In English without translation of question)

3 No.

4 Q. Whose writing is that?

5 A. Uyto.

6 Q. Uyto. That's one of the employees?

7 A. Yes.

8 Q. Okay. So Dear Management, we the staff of smoke

9 meat wash Department 19 has deemed it necessary

10 to bring these issues to your attention. That

11 was Uyto wrote that?

12 A. He's not -- Uyto was like a secretary. This is

13 the word from the whole employees, like the

14 whole -- (clarifying interpretation with

15 witness) -- the whole department.

16 Q. The whole department.

17 A. So they came up with these words. So it's not

18 like the words come out of Uyto's mouth. It's

19 the word that came from all of the employees

20 in....

21 Q. And how do you spell Uyto's name?

22 A. (In English by witness after translation)

23 Scott Reed, if he have paper for employees

24 over there, he knows, he knows -- he knows his

25 name. I think it's Y- -- Y --

19

1 Q. I see it on the second page. U-y-t-o?

2 A. (In English prior to translation of question)

3 Yes.

4 Q. Okay. Uyto. And he's the one who actually wrote

5 this down?

6 A. (In English without translation of question)

7 Yeah. (Through interpreter) Yeah, through

8 employees he was like a secretary so he just

9 writing what's being said.

10 Q. And did you have any role in getting the

11 employees to write this down?

12 (Sotto voce discussion between witness and

13 interpreter.)

14 INTERPRETER: She -- I was asking whose idea

15 it was for the letter was written and she said

16 it's not her idea or she didn't have any

17 involvement in this besides her, you know, paper

18 being passed by said employee to her to sign the

19 name but it was all employees involved in. It's

20 not one person idea of writing this paper or this

21 letter.

22 BY MS. CALEM:

23 Q. And you gave the letter to BJ?

24 THE INTERPRETER: (Without translation to

25 witness) She said she --

20

1 (Sotto voce discussion between witness and

2 interpreter)

3 THE INTERPRETER: So she received this

4 paper. She put it -- she sign on it, initial her

5 name on it, and then she pass to Terry and then

6 Terry passed to someone else. So it wasn't like

7 I first started the letter. It came around and

8 she passed letter on.

9 Q. And after everybody signed it, how did it get to

10 BJ?

11 A. They gave the letter to me since I'm a union

12 member so they thought it was a good idea for me

13 to take that letter.

14 Q. You're the steward of that department now, right?

15 INTERPRETER: Yes, she is.

16 BY MS. CALEM:

17 Q. Do you know how it got to Candice?

18 A. Because BJ was traveling to Las Vegas so he left

19 it to Candice.

20 Q. Okay. And this letter says that Lisa, the lead

21 person, has been disrespectful and harassing the

22 employees on the job?

23 A. Yes, it is true.

24 Q. I understand that Terry's complaint is that he

25 was not allowed to sit down when he was working.

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<p style="text-align: center;">21</p> <p>1 Is that right?</p> <p>2 A. Terry, his job, he's not allowed to be sitting</p> <p>3 while the line is going, but the thing is before</p> <p>4 the line is going or before the meat is coming,</p> <p>5 he is -- he feel free to sit down little bit and</p> <p>6 then when the meat, the line gets going again, he</p> <p>7 might come up and stand again because his job is</p> <p>8 not sitting job. His -- his job is standing job.</p> <p>9 He does everything while he's standing.</p> <p>10 Q. Okay. And Lisa didn't want him sitting while he</p> <p>11 was waiting for the line to start?</p> <p>12 A. The bucket issue is not Lisa's concern. It has</p> <p>13 nothing to do with Lisa. Lisa do not have</p> <p>14 involvement with the bucket issue, but Lisa have</p> <p>15 certain behavior of pushing people or yelling at</p> <p>16 people or mistreating people in the department.</p> <p>17 (Sotto voce discussion between witness and</p> <p>18 interpreter.)</p> <p>19 THE INTERPRETER: Is that correct?</p> <p>20 THE WITNESS: (Indicating).</p> <p>21 A. But the bucket issue is involving Foos (sp).</p> <p>22 THE INTERPRETER: Foos?</p> <p>23 (Sotto voce discussion between witness and</p> <p>24 interpreter.)</p> <p>25 A. (In English) Yeah, Robert Foos. (Through</p>	<p style="text-align: center;">23</p> <p>1 A. -- she was upset because I was still there at</p> <p>2 2:30 because I haven't left -- let the department</p> <p>3 and then she pushed me out to the point where I</p> <p>4 almost fell down and then Lisa hold me, hold my</p> <p>5 back --</p> <p>6 THE WITNESS: (In English) No.</p> <p>7 INTERPRETER: Oh. Lori --</p> <p>8 THE WITNESS: Lorena.</p> <p>9 A. -- Lorena hold my back while I was going fell</p> <p>10 down.</p> <p>11 Q. You fell down?</p> <p>12 INTERPRETER: No. She didn't. She almost</p> <p>13 and then Lorena held her back.</p> <p>14 BY MS. CALEM:</p> <p>15 Q. Okay. And how did Lisa push you, on your back?</p> <p>16 A. They were facing each other and then she push on</p> <p>17 shoulder.</p> <p>18 Q. And Lorena saw this?</p> <p>19 A. Yes, she saw.</p> <p>20 Q. Okay. How has Lisa been disrespectful or</p> <p>21 harassing to the other people in the department?</p> <p>22 A. At that time I'm not -- back to the same story,</p> <p>23 at that time Thomas --</p> <p>24 THE INTERPRETER: Who?</p> <p>25 (Sotto voce discussion between witness and</p>
<p style="text-align: center;">22</p> <p>1 interpreter) Robert Foos is one who is involving</p> <p>2 the bucket issue.</p> <p>3 Q. And who is Robert?</p> <p>4 A. He's a new supervisor.</p> <p>5 Q. Okay. This complaint, though, is about Lisa.</p> <p>6 Can you tell me how she has been disrespectful</p> <p>7 and harassing to employees?</p> <p>8 A. Personally she -- she have been pushing me twice.</p> <p>9 Q. She's been what?</p> <p>10 INTERPRETER: Pushing -- like pushing her.</p> <p>11 THE WITNESS: (Indicating.)</p> <p>12 BY MS. CALEM:</p> <p>13 Q. Okay. How has she been pushing you?</p> <p>14 A. One time I was -- I had an appointment at 2:30,</p> <p>15 my doctor appointment, so and then I went to --</p> <p>16 (Sotto voce discussion between witness and</p> <p>17 interpreter.)</p> <p>18 A. -- Okay. So I had an appointment at 3:30 and</p> <p>19 then my manager -- my manager told me to punch</p> <p>20 out at 2:30 so, and then I went to my department</p> <p>21 and --</p> <p>22 THE WITNESS: Lisa --</p> <p>23 A. -- Lisa went -- she asked me why you still</p> <p>24 here --</p> <p>25 THE WITNESS: (Witness speaking Swahili).</p>	<p style="text-align: center;">24</p> <p>1 interpreter.)</p> <p>2 THE WITNESS: (In English) Zuroff.</p> <p>3 A. Thomas Zuroff wasn't present so Lisa decided to</p> <p>4 go to report to Tom Zuroff --</p> <p>5 THE WITNESS: (In English) No. Thomas</p> <p>6 Anderson.</p> <p>7 A. -- Thomas Anderson about the incident.</p> <p>8 Q. About the incident where she pushed you?</p> <p>9 A. (In English) Uh-huh. (Through interpreter) Yes.</p> <p>10 Q. So Lisa went to find Thomas Anderson to tell him</p> <p>11 that she pushed you?</p> <p>12 A. She went -- she went to tell him that I'm --</p> <p>13 I'm --</p> <p>14 THE WITNESS: (In English) stealing --</p> <p>15 A. -- stealing time.</p> <p>16 Q. Is the rule that if you're still in the</p> <p>17 department, you have to be paid?</p> <p>18 A. I think it's any time. It was my normal that I</p> <p>19 was told to punch out at 2:30 so I was right on</p> <p>20 time.</p> <p>21 COURT REPORTER: So I was right on time?</p> <p>22 INTERPRETER: (Indicating.)</p> <p>23 BY MS. CALEM:</p> <p>24 Q. If you've punched out, you're supposed to leave</p> <p>25 the premises, right, you're not supposed to stay</p>



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1 in the department?

2 A. Yes, it is true.

3 Q. So Lisa went to find Tom Anderson to tell him

4 that you were still there?

5 A. Yes.

6 Q. And what happened then?

7 A. I -- Tom --

8 (Sotto voce discussion between witness and

9 interpreter.)

10 THE WITNESS: (In English) Yes.

11 A. -- Thomas called me and he asked -- he asked me

12 why I was still there so she explained to me that

13 Rusty gave her permission to be out by 2:30 but I

14 was right on time. She decide to push me.

15 MS. CALEM: She decided to what?

16 THE INTERPRETER: Push her.

17 BY MS. CALEM:

18 Q. So you're saying it was 2:30 and Lisa pushed you

19 at 2:30?

20 A. (In English without translation of question)

21 Yeah. It was almost 2:25 because we have --

22 INTERPRETER: Go ahead.

23 (Sotto voce discussion between witness and

24 interpreter.)

25 A. It was -- it wasn't at 2:30. It was, like, 2:25

26

1 because we give ourself little bit time to take

2 off our boots and all the equipment so we can go

3 punch out on time.

4 Q. All right. So you're saying that you were

5 leaving at 2:30 the way you were supposed to but

6 Lisa thought you were -- you were -- you were --

7 you should have been gone earlier?

8 A. (In English without translation of question)

9 Yeah.

10 Q. Okay. And she didn't handle it well and she said

11 what are you still doing here and pushed you?

12 A. (In English without translation of question)

13 Yeah.

14 Q. Okay. And Lorena saw this?

15 A. And we went to Rusty, me and Lisa --

16 COURT REPORTER: Went to where?

17 THE INTERPRETER: Rusty?

18 MS. CALEM: Rusty.

19 COURT REPORTER: Okay, thank you.

20 A. So we -- we went to -- me and Lisa went to him --

21 THE INTERPRETER: I don't know if he's a

22 girl.

23 MS. CALEM: Russ is a guy.

24 THE INTERPRETER: Is a guy, okay.

25 We went to him and then Rusty told Lisa,

27

1 yes, I'm the one who give her the permission to

2 leave at 2:30.

3 BY MS. CALEM:

4 Q. All right.

5 THE INTERPRETER: He told her.

6 BY MS. CALEM:

7 Q. All right. Okay. So this is an incident that

8 happened to you recently but this complaint is

9 from the whole department. As the union steward,

10 do you have an idea of how Lisa has harassed or

11 been disrespectful to other employees?

12 THE INTERPRETER: She said there is a lot of

13 complaining or a lot of incident that happen due

14 to Lisa. For instance, like we be walking while

15 we still have, like, one vats.

16 BY MS. CALEM:

17 Q. One what?

18 A. (In English) Vats. (Through interpreter) Vats.

19 Q. What's that?

20 A. (In English without translation of question)

21 The vats is the big container --

22 Q. Oh, the vat?

23 A. -- (in English) they put inside -- yeah, they put

24 inside the meat. (Through interpreter) So they

25 might have one left while they're working, and

28

1 then Lisa will go to the office to punch this

2 whole employee out while they're still on the

3 line working.

4 Q. So Lisa punches employees out while they're still

5 working?

6 A. (In English) Yes. (Through interpreter) Yes.

7 She will tell employee to punch out, like, at --

8 say that work was supposed to be at 2:18 and

9 while it is 2:18 while the employee is still

10 working, she'll go in the office and punch

11 everybody out while the -- at 2:18 while the line

12 is still going.

13 Q. Okay. Has there been a grievance, a union

14 grievance about this?

15 A. This has been going on for quite a while so

16 everybody is complaining, complaining about it,

17 their paycheck, the hours they've been working

18 because they're getting paid less to what they're

19 supposed to.

20 Q. How many times has this happened?

21 A. I have three names. Kamesu, Sami and Analem who

22 always complain --

23 COURT REPORTER: Can you say the names

24 again?

25 THE INTERPRETER: Kamesu, I don't know how

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1 to spell it. Sami and Analem.  
2 Those are the people who told me or complain  
3 it, but it looks like everybody in the department  
4 are complaining, not only these three but  
5 everybody else are. (In English) And Juan.  
6 (Through interpreter) And a Juan.  
7 BY MS. CALEM:  
8 Q. Juan. What's Juan's last name?  
9 A. (In English without translation of question)  
10 I don't know his last name.  
11 Q. Okay. So you say Lisa has done this more than  
12 once, then?  
13 A. Yes.  
14 Q. Has it been going on for the last month?  
15 A. She didn't do it last month. She --  
16 Q. So just this month? I'm trying to figure out  
17 when this happened.  
18 THE INTERPRETER: She does -- she does this  
19 all the time so people are getting tired of it so  
20 it's like all the time, she said.  
21 BY MS. CALEM:  
22 Q. But what does all the time mean? You said not  
23 last month. Has it been going on for a year? A  
24 month? Two weeks? How long?  
25 THE INTERPRETER: It's not -- it's more than

30

1 one year, she said.  
2 BY MS. CALEM:  
3 Q. More than one year. Every day?  
4 A. Oh. For punching out people? I mean, punching  
5 out before time, she -- personally I saw her  
6 doing it three times last month.  
7 Q. Okay. Did you see her doing it before last  
8 month?  
9 A. Yeah, I saw her -- I mean, that's with my -- with  
10 my own eyes, I saw her doing it three times last  
11 month so I don't know the other month.  
12 Q. All right. And what else has Lisa done that is  
13 disrespectful and harassing to employees on the  
14 job?  
15 A. Lisa has language -- language barrier, like she  
16 will talk to people as if they are children, they  
17 don't matter, so to speak.  
18 Q. Can you give me an example?  
19 A. For example, on the honey --  
20 THE WITNESS: (In English) Honey line.  
21 A. -- honey line there was these people work there.  
22 They're supposed to hang the meat on a --  
23 THE WITNESS: (In English) Tree.  
24 A. -- on a tree. So and they do three people give  
25 each other a break, 15-minute break, so let's say

31

1 one people already went on break and if he goes  
2 over break, when she saw them or she anyone doing  
3 it, she would just talk to them like yelling at  
4 them and use all these -- you know, not necessary  
5 language, I mean words.  
6 Q. What would she say?  
7 A. Yeah, she would just yell like that, you know.  
8 And because they got a headphone on them so they  
9 can't exactly listen or hear the conversation but  
10 you can read someone's lips when she's yelling  
11 and, you know, using all this kind of anger sort  
12 of facial when she's --  
13 Q. So her face looks angry and she yells things  
14 like, what are you doing, get back there right  
15 now, something like that?  
16 A. (In English without translation of question)  
17 Yeah, where you been. And, you know, when  
18 she talk, she talk in some, you know, body  
19 language.  
20 Q. So her body language is aggressive?  
21 A. (In English without translation of question)  
22 Yeah.  
23 Q. And her voice is loud?  
24 A. (In English without translation of question)  
25 Yeah.

32

1 Q. Lisa has a very loud voice anyway, right?  
2 THE INTERPRETER: She say although you have  
3 a big voice or louder voice, there is a way to  
4 speak to people instead of embarrassing them or  
5 making them feeling bad, there is a way to speak  
6 to people.  
7 BY MS. CALEM:  
8 Q. Right. I understand that. I just wanted to --  
9 I've met Lisa. She just has a loud voice, she  
10 has a booming voice. Would you agree with that?  
11 THE WITNESS: (In English after translation  
12 of question) Yeah.  
13 Q. Okay. So she speaks in a very sort of loud  
14 disrespectful way to people. Is that accurate?  
15 A. Yeah. Yeah. She speak with this aggressive or  
16 disrespectful language. One time she was  
17 speaking to Rufus and she almost pushed him.  
18 Is that --  
19 THE WITNESS: (In English) Yeah.  
20 A. Her hand almost touch her chest but did  
21 not reach -- or her hand touched the chest but  
22 not like pushing but like someone speaking with  
23 anger and she tried to (indicating).  
24 Q. But she didn't push him but she touched his  
25 chest. Yes?



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<p style="text-align: center;">33</p> <p>1 A. Yes.</p> <p>2 Q. All right. Is there any other example you can</p> <p>3 give me of how Lisa is disrespectful to the</p> <p>4 people in the department?</p> <p>5 A. There is many people in there, in that</p> <p>6 department, so personally I cannot know every</p> <p>7 incident happening in the department. This was</p> <p>8 the job -- this was Scott Reed job to investigate</p> <p>9 this complaint and to find out what -- what is</p> <p>10 really going on in that department.</p> <p>11 Q. Well, did Scott Reed tell you he was going to</p> <p>12 speak to each person?</p> <p>13 A. Yeah. He told Candice that he was going to call</p> <p>14 each individual, but he only called Terry and</p> <p>15 that was it.</p> <p>16 Q. How do you know he told Candice that?</p> <p>17 A. Because Candice give me -- report to me that.</p> <p>18 Q. So Candice told you that Scott told her that he</p> <p>19 was going to speak to everybody. Is that right?</p> <p>20 A. (In English without translation of question)</p> <p>21 Yeah.</p> <p>22 Q. Okay. But you didn't hear Scott say that?</p> <p>23 A. (In English without translation of question)</p> <p>24 No.</p> <p>25 Q. Okay. And going back to Lisa punching people</p>	<p style="text-align: center;">35</p> <p>1 still working, and I say yes. And they told me</p> <p>2 we already punch you out. And I asked her, do</p> <p>3 you have another clock -- another clock -- I</p> <p>4 mean, punching-out system or clock and she said</p> <p>5 yes.</p> <p>6 Q. So they -- Lisa said, I have another clock to</p> <p>7 punch you out?</p> <p>8 A. (In English without translation of question)</p> <p>9 Yeah. She told me, you still work here but</p> <p>10 we already punch you out. And I ask her, do you</p> <p>11 have another clock to punch people out. She said</p> <p>12 yes. Even when you forgot the ID badge, she can</p> <p>13 punch you in and punch you out.</p> <p>14 Q. And normally how do you punch in and out? What</p> <p>15 do you do?</p> <p>16 A. There is in the hallway, the main hallway in the</p> <p>17 entrance where they have ID so when they enter</p> <p>18 in, they use the ID to punch in, and when they</p> <p>19 walk out the hall, they use -- they use the same</p> <p>20 clock.</p> <p>21 Q. So you use your ID card?</p> <p>22 A. (In English without translation of question)</p> <p>23 Uh-huh.</p> <p>24 Q. And do you put it into a machine or scan it?</p> <p>25 A. (In English without translation of question).</p>
<p style="text-align: center;">34</p> <p>1 out, I thought everybody had to punch themselves</p> <p>2 out. How could she punch people out?</p> <p>3 A. Do you want me to explain to you how she does</p> <p>4 that?</p> <p>5 Q. Yes, please.</p> <p>6 THE INTERPRETER: Do you want me to tell you</p> <p>7 how I know it, she's asking.</p> <p>8 BY MS. CALEM:</p> <p>9 Q. I just want to know -- yeah, you said you saw her</p> <p>10 do it so I would like to know how she was</p> <p>11 punching everybody out.</p> <p>12 A. There was one time the line -- how I find out was</p> <p>13 one time I was working on my lane, the lane was</p> <p>14 stopped so to the work was pretty much over. And</p> <p>15 I saw on the other lane they was still having</p> <p>16 work to do and then I saw one space which was</p> <p>17 empty so I just in sneaking there.</p> <p>18 (Sotto voce discussion between witness and</p> <p>19 interpreter.)</p> <p>20 A. So and then one of the person went to report to</p> <p>21 her that Sala is still working here. Her and the</p> <p>22 Russ came and asked me --</p> <p>23 COURT REPORTER: Her and who?</p> <p>24 THE INTERPRETER: Rusty.</p> <p>25 A. -- her and Rusty came and they asked me, are you</p>	<p style="text-align: center;">36</p> <p>1 No. Just a scan on top.</p> <p>2 Q. Okay. Since you've worked at John Morrell or</p> <p>3 Smithfield, has Lisa behaved like this to</p> <p>4 employees, generally?</p> <p>5 A. Like years ago she was very, very bad, but now it</p> <p>6 seems like she's going down a little bit.</p> <p>7 Q. When you say she was very, very bad, she was rude</p> <p>8 and disrespectful?</p> <p>9 A. (Indicating by witness).</p> <p>10 Q. Yes?</p> <p>11 A. (In English) Yes. (Through interpreter) Yes.</p> <p>12 Q. Okay. And now she's a little less rude and</p> <p>13 disrespectful?</p> <p>14 A. (In English) Yeah.</p> <p>15 Q. And did many employees find her to be rude and</p> <p>16 disrespectful?</p> <p>17 A. Yes.</p> <p>18 Q. All right. Let's go back a little bit to you</p> <p>19 personally, just I need to ask you a little bit</p> <p>20 about your background. Where do you currently</p> <p>21 live?</p> <p>22 A. (In English) 4901 West 17th Place.</p> <p>23 COURT REPORTER: 17th Place?</p> <p>24 THE WITNESS: (In English) Yeah.</p> <p>25 BY MS. CALEM:</p>

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<p>37</p> <p>1 Q. Sioux Falls?</p> <p>2 A. (In English prior to translation of question)</p> <p>3 Sioux Falls, South Dakota.</p> <p>4 Q. How long have you lived there?</p> <p>5 A. From October -- October of last year until now.</p> <p>6 Q. And before that, where did you live?</p> <p>7 A. (In English after translation of question)</p> <p>8 4901 East -- sorry, 4901 East 54th Street.</p> <p>9 Q. Same number, 4901?</p> <p>10 A. (In English prior to translation of question)</p> <p>11 Yeah.</p> <p>12 Q. Wow.</p> <p>13 A. (In English without translation of question) It</p> <p>14 was a surprise.</p> <p>15 Q. Sioux Falls?</p> <p>16 A. (In English prior to translation of question)</p> <p>17 Sioux Falls.</p> <p>18 Q. How long did you live there?</p> <p>19 A. (In English after translation of question)</p> <p>20 Almost three years. Yeah, three years and</p> <p>21 something.</p> <p>22 Q. And who do you live with?</p> <p>23 A. My kids.</p> <p>24 Q. Your daughter Maggie?</p> <p>25 A. (In English prior to translation of question)</p>	<p>39</p> <p>1 Q. That's enough.</p> <p>2 A. (In English without translation of question)</p> <p>3 Yeah.</p> <p>4 Q. Do you have any other children?</p> <p>5 A. (In English without translation of question)</p> <p>6 Yeah.</p> <p>7 Q. They don't live with you, though?</p> <p>8 A. (In English without translation of question)</p> <p>9 No. They grow up.</p> <p>10 Q. How many other children do you have?</p> <p>11 A. (In English without translation of question)</p> <p>12 I have -- I can say I have there's five.</p> <p>13 Q. Five children?</p> <p>14 A. (In English without translation of question)</p> <p>15 Uh-huh.</p> <p>16 Q. So you have two other children.</p> <p>17 Are you married?</p> <p>18 A. (In English without translation of question)</p> <p>19 No.</p> <p>20 Q. Have you ever been married?</p> <p>21 A. (In English without translation of question)</p> <p>22 No.</p> <p>23 Q. Now, when did you come to the United States?</p> <p>24 A. (In English without translation of question)</p> <p>25 December 14, 2004.</p>
<p>38</p> <p>1 Yeah.</p> <p>2 Q. What are your other children's names?</p> <p>3 A. (In English prior to translation of question)</p> <p>4 Sandy.</p> <p>5 Q. How old is Sandy?</p> <p>6 A. (In English without translation of question)</p> <p>7 Ten.</p> <p>8 Q. Girl, boy?</p> <p>9 A. (In English without translation of question)</p> <p>10 Girl.</p> <p>11 Q. And who else?</p> <p>12 A. (In English without translation of question)</p> <p>13 Yaniki.</p> <p>14 Q. Yaniki?</p> <p>15 A. (In English without translation of question)</p> <p>16 Uh-huh.</p> <p>17 Q. Girl or boy?</p> <p>18 A. (In English without translation of question)</p> <p>19 Boy.</p> <p>20 Q. How old?</p> <p>21 A. (In English without translation of question)</p> <p>22 17.</p> <p>23 Q. Anybody else?</p> <p>24 A. (In English without translation of question)</p> <p>25 No.</p>	<p>40</p> <p>1 Q. Did you come to South Dakota at that time?</p> <p>2 A. (In English without translation of question)</p> <p>3 No.</p> <p>4 Q. Where did you go to?</p> <p>5 A. (In English without translation of question)</p> <p>6 Dallas, Texas.</p> <p>7 Q. How long did you live in Dallas?</p> <p>8 A. (In English without translation of question)</p> <p>9 Nine years and a half.</p> <p>10 Q. Did you have jobs when you were in Dallas?</p> <p>11 A. (In English without translation of question)</p> <p>12 Yeah.</p> <p>13 Q. What were your jobs?</p> <p>14 A. (In English without translation of question)</p> <p>15 I worked Crestone Baking Group.</p> <p>16 COURT REPORTER: Crest?</p> <p>17 THE WITNESS: (Indicating).</p> <p>18 THE INTERPRETER: C-r-e-s-t-o-n-e Group.</p> <p>19 BY MS. CALEM:</p> <p>20 Q. Is that a pay stub from Crestone Group?</p> <p>21 A. Yeah.</p> <p>22 THE INTERPRETER: You want to look at this?</p> <p>23 (Indicating).</p> <p>24 BY MS. CALEM:</p> <p>25 Q. Okay. Crestone Group, okay. And this is an</p>



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<p style="text-align: right;">45</p> <p>1 you worked there?</p> <p>2 A. 8.50.</p> <p>3 Q. How long did you work at the Renaissance Hotel?</p> <p>4 A. A year and a half.</p> <p>5 Q. And where did you go after that to get -- for</p> <p>6 work?</p> <p>7 A. After that, that's when I went to Walmart.</p> <p>8 Q. Okay. Were you living with the father of your</p> <p>9 children at that time?</p> <p>10 A. Yes.</p> <p>11 Q. And what is his name?</p> <p>12 A. Hassani (sp).</p> <p>13 INTERPRETER: Hassani?</p> <p>14 THE WITNESS: Uh-huh.</p> <p>15 Q. Hassan?</p> <p>16 A. (In English) H-a-s-s-a-n-i. (Through interpreter)</p> <p>17 H-a-s-s-a-n-i.</p> <p>18 Q. And last name?</p> <p>19 A. (In English) D-e-m-u- --</p> <p>20 Q. D-e-m-u?</p> <p>21 A. -- -n-g-a.</p> <p>22 Q. Ah, okay.</p> <p>23 COURT REPORTER: N-g-a?</p> <p>24 THE WITNESS: Yeah.</p> <p>25 COURT REPORTER: Thank you.</p>	<p style="text-align: right;">47</p> <p>1 THE INTERPRETER: Like that (indicating)?</p> <p>2 THE WITNESS: Yes.</p> <p>3 THE INTERPRETER: A-m-i-s-i.</p> <p>4 BY MS. CALEM:</p> <p>5 Q. Last name?</p> <p>6 A. (In English) Rora. Rora, R-o-r-a.</p> <p>7 Q. R-o-r-a?</p> <p>8 A. (In English without translation of question)</p> <p>9 Uh-huh.</p> <p>10 Q. Okay. Amisi Rora. And does your cousin work at</p> <p>11 Smithfield?</p> <p>12 A. (In English after partial translation by</p> <p>13 interpreter)</p> <p>14 He used to.</p> <p>15 Q. Is he the one who suggested you apply to</p> <p>16 Smithfield?</p> <p>17 A. (In English without translation of question)</p> <p>18 Uh-huh. (Through interpreter) Yes.</p> <p>19 Q. Yes? I like that you're answering, that's fine.</p> <p>20 I understand the English, and if you want to --</p> <p>21 if you don't know how to say something, check</p> <p>22 with Elias, that's fine with me. I just ask that</p> <p>23 you answer verbally. No nodding or -- she can't</p> <p>24 take that down --</p> <p>25 THE INTERPRETER: (Translating).</p>
<p style="text-align: right;">46</p> <p>1 Q. Demunga?</p> <p>2 A. (In English without translation of question)</p> <p>3 Uh-huh.</p> <p>4 Q. And what brought you to South Dakota?</p> <p>5 A. Just for job, for work.</p> <p>6 Q. Looking for work. How did you find out about a</p> <p>7 job in South Dakota?</p> <p>8 A. My cousin told me that South Dakota is available.</p> <p>9 COURT REPORTER: Say that again.</p> <p>10 THE INTERPRETER: Told me that South Dakota</p> <p>11 is available.</p> <p>12 COURT REPORTER: Okay.</p> <p>13 MS. CALEM: That what is there?</p> <p>14 THE INTERPRETER: My cousin --</p> <p>15 MS. CALEM: Told her --</p> <p>16 THE INTERPRETER: Yeah, tell her that to</p> <p>17 move here.</p> <p>18 MS. CALEM: To move here, okay.</p> <p>19 BY MS. CALEM:</p> <p>20 Q. Does your cousin live here?</p> <p>21 A. (In English without translation of question)</p> <p>22 Uh-huh.</p> <p>23 Q. What is your cousin's name?</p> <p>24 A. Amisi (sp).</p> <p>25 Q. Amisi?</p>	<p style="text-align: right;">48</p> <p>1 Q. -- but I think we're doing fine if you answer me</p> <p>2 directly and Elias helps. So whatever works best</p> <p>3 for you.</p> <p>4 A. (In English without translation of question)</p> <p>5 Okay.</p> <p>6 Q. So did you apply for a job at Smithfield when you</p> <p>7 came to South Dakota?</p> <p>8 THE VIDEOGRAPHER: Can I get you to repeat</p> <p>9 the question after the planes?</p> <p>10 MS. CALEM: You got planes, trains. There's</p> <p>11 always something here.</p> <p>12 THE VIDEOGRAPHER: It's very loud. Okay. I</p> <p>13 think we're good.</p> <p>14 BY MS. CALEM:</p> <p>15 Q. All right. So when you came to South Dakota, did</p> <p>16 you immediately apply for a job at Smithfield?</p> <p>17 A. Yeah. I apply it was John Morrell was --</p> <p>18 Q. John Morrell?</p> <p>19 A. So I applied right away.</p> <p>20 Q. Did you have an interview at John Morrell?</p> <p>21 A. Yes.</p> <p>22 Q. Do you remember who you interviewed with?</p> <p>23 A. Alaina (sp).</p> <p>24 Q. Anybody else?</p> <p>25 A. No.</p>

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<p style="text-align: center;">49</p> <p>1 Q. And were you hired right away?</p> <p>2 A. Yes.</p> <p>3 Q. Did some of your children stay in Dallas?</p> <p>4 A. Yes.</p> <p>5 Q. Which children stayed in Dallas?</p> <p>6 THE INTERPRETER: She's asking why are you</p> <p>7 asking all these family issue questions?</p> <p>8 MS. POCHOP: She gets to ask them. You just</p> <p>9 need to answer them. If there's a problem, I</p> <p>10 will let you know.</p> <p>11 A. Dieudonne, D-i-e-u-d-o-n-n-e.</p> <p>12 BY MS. CALEM:</p> <p>13 Q. Okay. How old is Dieudonne?</p> <p>14 A. Twenty-six.</p> <p>15 Q. And was there anyone else who stayed?</p> <p>16 A. Sango, S-a-n-g-o.</p> <p>17 Q. How old is Sango?</p> <p>18 A. Twenty-three.</p> <p>19 Q. And these are both boys?</p> <p>20 A. Dieudonne a man. Sango is a female.</p> <p>21 Q. What is your immigration status? Do you have a</p> <p>22 Green Card?</p> <p>23 A. Yeah. She's a Green Card holder.</p> <p>24 Q. Other than your children and your cousin, do you</p> <p>25 have family here in South Dakota?</p>	<p style="text-align: center;">51</p> <p>1 A. Yes.</p> <p>2 Q. Have you spoken to anybody at church about your</p> <p>3 experiences at John Morrell?</p> <p>4 A. No.</p> <p>5 Q. Since you started working at John Morrell, have</p> <p>6 you looked for other jobs?</p> <p>7 A. I tried to. I apply at post office but I didn't</p> <p>8 get a job.</p> <p>9 Q. Did you have an interview there?</p> <p>10 A. No.</p> <p>11 Q. Have you applied anywhere else?</p> <p>12 A. I tried to apply at a place where she works --</p> <p>13 yeah, where she works but they didn't call me. I</p> <p>14 don't know the company or the name of it but she</p> <p>15 the one who applied for me.</p> <p>16 Q. Maggie applied for you?</p> <p>17 A. Uh-huh.</p> <p>18 Q. At another company?</p> <p>19 A. Yeah.</p> <p>20 Q. Do you know the name of the company?</p> <p>21 THE INTERPRETER: She doesn't know the name</p> <p>22 but it product like soap and Colgate, like teeth,</p> <p>23 what is it, like teeth, like Colgate?</p> <p>24 BY MS. CALEM:</p> <p>25 Q. Colgate toothpaste?</p>
<p style="text-align: center;">50</p> <p>1 A. No, I don't.</p> <p>2 Q. Other than your children and the father of your</p> <p>3 children in Dallas, do you have family in the</p> <p>4 United States?</p> <p>5 A. No, I don't.</p> <p>6 Q. And what country are you from originally?</p> <p>7 A. DRC Congo.</p> <p>8 COURT REPORTER: Say that again.</p> <p>9 THE INTERPRETER: DRC.</p> <p>10 MS. CALEM: Demo -- Democratic Republic of</p> <p>11 the Congo.</p> <p>12 THE INTERPRETER: Congo.</p> <p>13 BY MS. CALEM:</p> <p>14 Q. What's the highest level of education that you've</p> <p>15 achieved?</p> <p>16 A. Sixth grade.</p> <p>17 Q. When you're not working at John Morrell, are</p> <p>18 there any particular activities or hobbies that</p> <p>19 you do?</p> <p>20 A. Just do home activities, housework.</p> <p>21 Q. Do you attend a church?</p> <p>22 A. Yeah, I do.</p> <p>23 Q. Which church do you attend?</p> <p>24 A. Fellowship Church.</p> <p>25 Q. In Sioux Falls?</p>	<p style="text-align: center;">52</p> <p>1 THE INTERPRETER: Yeah. Like, they do --</p> <p>2 they pack dog food.</p> <p>3 BY MS. CALEM:</p> <p>4 Q. So it's a packing company?</p> <p>5 THE INTERPRETER: It's a packing company.</p> <p>6 BY MS. CALEM:</p> <p>7 Q. And it was here in Sioux Falls?</p> <p>8 A. Yes.</p> <p>9 Q. So Maggie submitted the application under your</p> <p>10 name?</p> <p>11 A. (In English) Yeah. (Through translator) Yeah,</p> <p>12 she applied for me because I asked her if she</p> <p>13 would do for me and she did.</p> <p>14 Q. And did you get any call back or interview?</p> <p>15 A. No.</p> <p>16 Q. When did you apply to the post office?</p> <p>17 THE INTERPRETER: She got to look on her</p> <p>18 notes.</p> <p>19 BY MS. CALEM:</p> <p>20 Q. Do you have notes with you today?</p> <p>21 A. December 22nd, 2016.</p> <p>22 Q. So I see that you're consulting some notes. What</p> <p>23 is it that you have with you?</p> <p>24 A. (In English, simultaneous to translation of</p> <p>25 question.)</p>



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<p style="text-align: center;">53</p> <p>1 No, I don't have a note.</p> <p>2 Q. No? You were just looking at something.</p> <p>3 A. Just that. It's a diary.</p> <p>4 Q. A diary?</p> <p>5 THE INTERPRETER: Yeah.</p> <p>6 BY MS. CALEM:</p> <p>7 Q. Well, I'm going to ask your lawyer to take a look</p> <p>8 at it and see if that's something that is</p> <p>9 responsive to our requests.</p> <p>10 And we can talk about that later, Stephanie.</p> <p>11 THE VIDEOGRAPHER: Stephanie, could you put</p> <p>12 your mic on.</p> <p>13 MS. POCHOP: (Complies.)</p> <p>14 Q. When did you apply to the packing company?</p> <p>15 A. I don't know. I can't remember the exact month.</p> <p>16 It was the year of 2016. Same -- same year.</p> <p>17 Q. Is there anywhere else you've applied since you</p> <p>18 worked at John Morrell?</p> <p>19 A. Since John Morrell and Smithfield have been busy,</p> <p>20 sometime we work Monday to Sunday and I don't</p> <p>21 really have the time to apply, I mean, to get a</p> <p>22 chance to go and apply for the job. And I was</p> <p>23 already denied twice applying for those two jobs</p> <p>24 and never receiving a phone call so I lose my</p> <p>25 hope and decide not to apply anymore.</p>	<p style="text-align: center;">55</p> <p>1 Q. -- to the spray?</p> <p>2 THE INTERPRETER: Yeah.</p> <p>3 BY MS. CALEM:</p> <p>4 Q. Was it cleaning spray?</p> <p>5 A. She wasn't spraying but she was the first one to</p> <p>6 clean, like, to make it look shiny before they</p> <p>7 put any spray on the cabinet, but the powder</p> <p>8 would just come in my face, in my nose, or</p> <p>9 whatever powder smell would come in my nose and</p> <p>10 my face.</p> <p>11 Q. Do you remember how much you were earning?</p> <p>12 THE INTERPRETER: She was 11.65, in that</p> <p>13 area, in that range but she doesn't remember</p> <p>14 exactly for sure.</p> <p>15 BY MS. CALEM:</p> <p>16 Q. Is there any other place that you've applied</p> <p>17 since you started to work at John Morrell?</p> <p>18 A. No. Just those.</p> <p>19 Q. Have you been to a job agency to help you find a</p> <p>20 job?</p> <p>21 A. Yeah. I went to --</p> <p>22 She doesn't know, but I'm assuming it's</p> <p>23 ProForce. It is on 57, up there, the bridge. So</p> <p>24 she went there to apply and they left her name,</p> <p>25 all that info to them but since then, they never</p>
<p style="text-align: center;">54</p> <p>1 Q. Before 2016, did you apply anywhere?</p> <p>2 A. Showplace. I don't remember exact year. It</p> <p>3 could be between 2016 -- 2015 and 2016 I work --</p> <p>4 I apply at Showplace and I work there for just</p> <p>5 one day and I quit.</p> <p>6 Q. You applied where?</p> <p>7 A. Showplace.</p> <p>8 Q. Showplace?</p> <p>9 A. Yeah.</p> <p>10 Q. And what is that?</p> <p>11 A. They -- they make cabinets, like tables and stuff</p> <p>12 or furniture.</p> <p>13 Q. Is this in Sioux Falls?</p> <p>14 A. Yeah.</p> <p>15 Q. And you worked there one day?</p> <p>16 A. Yeah.</p> <p>17 Q. What was your position?</p> <p>18 A. I was spraying the cabinets but I had allergy, so</p> <p>19 due to my allergy, I couldn't take -- take it in,</p> <p>20 the smell of the paint.</p> <p>21 Q. Couldn't take what?</p> <p>22 A. I couldn't, like, handle or take in because the</p> <p>23 allergy that I have --</p> <p>24 Q. Of the spray, you had a reaction --</p> <p>25 THE INTERPRETER: -- the reaction.</p>	<p style="text-align: center;">56</p> <p>1 call her back.</p> <p>2 Q. When did you go there?</p> <p>3 A. I don't remember exact month but I believe in</p> <p>4 2016.</p> <p>5 Q. Just that one agency? Did you try any others?</p> <p>6 A. I just lost my hope so I didn't try any other</p> <p>7 agency.</p> <p>8 Q. Are there any social services agencies, like</p> <p>9 Lutheran Social Services, that might help you</p> <p>10 find another job?</p> <p>11 A. Lutheran cannot help me because I'm not one like</p> <p>12 needy refugees because they help those -- you</p> <p>13 know, first the new-comers.</p> <p>14 Q. New immigrants?</p> <p>15 THE INTERPRETER: New immigrants, yeah.</p> <p>16 BY MS. CALEM:</p> <p>17 Q. So you haven't looked there because you think</p> <p>18 they deal with new immigrants and they're not</p> <p>19 going to work with you?</p> <p>20 A. Yeah, that's the rules.</p> <p>21 Q. All right. I want to talk about the incident</p> <p>22 with Scott Genzler. Can you tell me what you</p> <p>23 remember happened that day?</p> <p>24 A. It was Friday, 19th.</p> <p>25 Q. 19th of February?</p>

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<p style="text-align: center;">57</p> <p>1 A. Yeah. February. At 1:30. I was opening the</p> <p>2 socks or net for him. And while I was opening</p> <p>3 the net for him, he just told me, Open --</p> <p>4 THE WITNESS: Fucking socks --</p> <p>5 A. -- the fucking socks like this.</p> <p>6 Q. When he said "like this", did he show you what he</p> <p>7 meant?</p> <p>8 A. When he received the net, he opened wide open,</p> <p>9 like wide open.</p> <p>10 Q. And he wanted you to open it wider?</p> <p>11 A. He -- I didn't know what he wanted because we're</p> <p>12 not supposed to open it wider, because if you</p> <p>13 open it wider, it won't -- if you put it to the</p> <p>14 horn, it won't stay on the horn.</p> <p>15 COURT REPORTER: To the what?</p> <p>16 Q. Because it won't stay on the horn?</p> <p>17 A. So usually you aren't supposed to open way too</p> <p>18 bigger --</p> <p>19 Q. You're not supposed to stretch the net very</p> <p>20 big --</p> <p>21 A. You're supposed to have it like a -- at a medium</p> <p>22 level. But him, he just opened wide, like way</p> <p>23 too wider. So if you open wider, it will go into</p> <p>24 the horn, but the next person who put it in, it</p> <p>25 would be harder for him or her because it's</p>	<p style="text-align: center;">59</p> <p>1 person is here on top of job so he's going to</p> <p>2 press a button and the ham's go through to the</p> <p>3 horn already -- already dress the horn so when he</p> <p>4 get out, it get out with the net. That's how it</p> <p>5 is.</p> <p>6 Q. Okay. So the net gets set up on the horn?</p> <p>7 A. (In English without translation of question)</p> <p>8 Right.</p> <p>9 Q. The ham goes in and slides out with the -- with</p> <p>10 the net on it?</p> <p>11 A. (In English without translation of question)</p> <p>12 Yes.</p> <p>13 Q. Then it goes to get clipped?</p> <p>14 A. (In English without translation of question)</p> <p>15 Yes.</p> <p>16 Q. Okay. And was your job to set up the nets on the</p> <p>17 horn?</p> <p>18 A. (In English without translation of question)</p> <p>19 My job is to open the socks and give to</p> <p>20 someone who set up on horn.</p> <p>21 Q. Okay. And he said, Open the fucking socks like</p> <p>22 this, meaning wider?</p> <p>23 A. (In English without translation of question)</p> <p>24 Yes.</p> <p>25 Q. Did he demonstrate what he wanted or what he</p>
<p style="text-align: center;">58</p> <p>1 already -- it's already been open wider.</p> <p>2 (Outside noise interference.)</p> <p>3 THE VIDEOGRAPHER: Have him repeat the last</p> <p>4 sentence.</p> <p>5 Q. Okay. So we're going to take a step back here.</p> <p>6 So this is the net, and you have to open it wide</p> <p>7 enough for the ham to go in; is that right? Is</p> <p>8 it a ham?</p> <p>9 A. That what you're supposed to apply to something</p> <p>10 like a pole.</p> <p>11 Q. The horn?</p> <p>12 A. The horn. So, and the person who's up will push</p> <p>13 so the ham go through that net.</p> <p>14 Q. Okay. So the person above pushes the ham down</p> <p>15 and it's the -- the net or the sock is supposed</p> <p>16 to be just big enough the ham goes in; is that</p> <p>17 right?</p> <p>18 THE WITNESS: Can I try to explain?</p> <p>19 Q. Sure, yeah, yeah.</p> <p>20 A. (In English) We work like this. Yvette job is</p> <p>21 clipping here. My job is to open the socks and</p> <p>22 give it someone to work on the horn so we have</p> <p>23 some horn is along from here, you know, to here</p> <p>24 (indicating). So when I give the person a net,</p> <p>25 he have to, you know, close the horn so this</p>	<p style="text-align: center;">60</p> <p>1 thought you should do?</p> <p>2 A. Yes. He demonstrate -- demonstrate that to me</p> <p>3 but it wasn't how we would do it.</p> <p>4 Q. But he thought that was incorrect, that was not</p> <p>5 the way to do it, right?</p> <p>6 A. Yes. It wasn't correct.</p> <p>7 Q. So then what happened after that, when -- after</p> <p>8 he said, Open the fucking socks like this?</p> <p>9 A. (In English) Bitch, fucking like this. (Through</p> <p>10 interpreter) And the second time, I hand it to</p> <p>11 him the socks, he said like what she just said,</p> <p>12 bitch, open like this.</p> <p>13 Q. So what was Scott's job that day?</p> <p>14 A. He was pulling net onto the horn.</p> <p>15 Q. Ah, okay. So he was saying open the nets bigger</p> <p>16 and then he was supposed to put them on the horn,</p> <p>17 right?</p> <p>18 A. The second time I did how he wanted it, how he</p> <p>19 wanted it to be, but instead of do -- or do</p> <p>20 whatever supposed to, he just used that language</p> <p>21 that he used.</p> <p>22 Q. Now, before he said, Open the fucking socks like</p> <p>23 this, had there been any discussion with him, any</p> <p>24 argument?</p> <p>25 A. A day before prior to the incident, he tried to</p>



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1 gave me massage on my shoulder and I told him  
2 not, don't do it.  
3 Q. What -- what do you mean, he tried to give you a  
4 massage on your shoulder?  
5 A. All right. He came not knowingly, like, behind  
6 me, and before I know it, I feel someone is  
7 touching my shoulder with his hand on my  
8 shoulder. And when I turned behind, when I  
9 looked behind, I saw it was him and I told him,  
10 do not touch me again. And he said he was trying  
11 to give me a massage and I told him, do not give  
12 me a massage.  
13 Q. You said, I didn't ask you for a massage?  
14 THE INTERPRETER: I did not ask.  
15 A. (In English) Yeah.  
16 BY MS. CALEM:  
17 Q. Did you tell anyone in human resources about  
18 that?  
19 A. I didn't tell anybody in HR --  
20 (Outside noise interference.)  
21 MS. CALEM: Really?  
22 A. I didn't report that incident down to HR because  
23 on orientation, they told us if something -- some  
24 behaviors, somebody's doing something to you that  
25 you don't like, you're supposed to let him know,

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1 her -- him or her once and warn her once, and if  
2 she or he does twice, you got to go report it.  
3 So he did it once and he didn't do it again so I  
4 did not report.  
5 Q. And had you been friendly with Scott before that?  
6 A. No, we were not friendly.  
7 Q. Did you ever see him give anybody else a massage?  
8 A. No, I haven't seen it.  
9 Q. Did anybody see him touch you and try to give you  
10 a massage?  
11 A. I didn't -- I don't know if anybody saw it  
12 because I was on the bone line, that's when it  
13 happened -- bone?  
14 You said bone line?  
15 THE WITNESS: (Speaking Swahili).  
16 A. They call it -- they call it bone line so  
17 nobody -- I didn't care to -- you know, to find  
18 witnesses because I warn him -- I warn him once  
19 and he didn't do it again so he didn't bother me.  
20 Q. And what were you wearing when he touched your  
21 shoulders to give you a massage?  
22 A. I had a work clothes.  
23 Q. Did you have a plastic coat on?  
24 A. Yes.  
25 (Sotto voce discussion between witness and

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1 interpreter.)  
2 A. Yes. You have to.  
3 Q. So work clothes, a plastic coat. Did you have a  
4 hat on?  
5 A. Yes.  
6 Q. And the plastic, does that go over a coat that  
7 the company gives you or just over your regular  
8 clothes?  
9 A. It's your own clothes that you put on top of  
10 your -- it's your own clothes, that you put a  
11 plastic coat on top of your own clothes.  
12 Q. On top of your own clothes.  
13 THE INTERPRETER: Yes.  
14 BY MS. CALEM:  
15 Q. I just wondered if there was, like, a white coat  
16 that went under the plastic or anything like  
17 that.  
18 A. (In English without translation of question)  
19 Oh, I'm sorry. I'm sorry. Yes. We wear  
20 our regular clothes and we have a white coat and  
21 you put the plastic on top.  
22 Q. On top of the white coat?  
23 A. (In English without translation of question)  
24 Yeah.  
25 Q. Okay. And he put his hands on your shoulders?

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1 A. (In English without translation of question)  
2 Yes.  
3 Q. And that was the day before this happened?  
4 A. It wasn't a day before. It was in January.  
5 Q. The month before.  
6 THE INTERPRETER: The month before, that's  
7 when.  
8 BY MS. CALEM:  
9 Q. And when you were describing the incident  
10 afterwards to Scott Reed and the other people,  
11 did you tell them about the time that Scott put  
12 his hands on your shoulders?  
13 THE INTERPRETER: There was one incident  
14 that happened. She doesn't remember if it was in  
15 January, I think it was January.  
16 (Sotto voce discussion between witness and  
17 interpreter.)  
18 THE INTERPRETER: She doesn't know if it is  
19 January or February. She had a tube -- go  
20 ahead -- like a water tube. She was putting  
21 water into a bucket.  
22 THE WITNESS: Yeah, a hose.  
23 THE INTERPRETER: Water hose in a bucket and  
24 then some of the water drip on his coat, like --  
25 BY MS. CALEM:

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<p style="text-align: center;">65</p> <p>1 Q. On Scott Genzler's coat?</p> <p>2 THE INTERPRETER: On Scott Genzler, on his</p> <p>3 plastic coat. And then he --</p> <p>4 Got upset, right?</p> <p>5 THE WITNESS: (Indicating.)</p> <p>6 A. -- he got upset, and then he pulled -- and he</p> <p>7 something to him, a water hose --</p> <p>8 THE WITNESS: (In English) Hose.</p> <p>9 BY MS. CALEM:</p> <p>10 Q. He had the same hose?</p> <p>11 THE INTERPRETER: Yeah.</p> <p>12 So he sprayed his water in my face. He</p> <p>13 sprayed the water in my face and then my face --</p> <p>14 my eyes were itchy and I went down to First-Aid</p> <p>15 to wash it off. I reported that incident but I</p> <p>16 did not bring it up the massage incident on that</p> <p>17 day.</p> <p>18 (Lisa Marso entered the room.)</p> <p>19 BY MS. CALEM:</p> <p>20 Q. Yeah. So this spraying incident happened in</p> <p>21 January or February?</p> <p>22 THE INTERPRETER: (Without interpretation to</p> <p>23 witness) She doesn't remember if it was January</p> <p>24 or February but.</p> <p>25 (Sotto voce discussion between witness and</p>	<p style="text-align: center;">67</p> <p>1 Q. Okay. So at the time of the spray, somehow the</p> <p>2 personnel office knew what had happened?</p> <p>3 A. (In English without translation of question)</p> <p>4 Uh-huh.</p> <p>5 Q. And you think someone from First Aid contacted</p> <p>6 the personnel office?</p> <p>7 A. (In English without translation of question)</p> <p>8 Uh-huh.</p> <p>9 Q. Yes?</p> <p>10 A. (In English without translation of question)</p> <p>11 Yes.</p> <p>12 Q. All right. But you yourself did not make a</p> <p>13 report to the personnel office at that time?</p> <p>14 A. (In English without translation of question)</p> <p>15 No, because everything happen -- every</p> <p>16 incident happen in department. If you go to</p> <p>17 First Aid, they have to report to personnel</p> <p>18 office.</p> <p>19 Q. Okay. So if there's any incident that leads you</p> <p>20 to go to First Aid or to the nurse, they have to</p> <p>21 notify personnel?</p> <p>22 A. (In English without translation of question)</p> <p>23 Yes.</p> <p>24 Q. Okay. And then separately there was the massage</p> <p>25 incident. Was that before or after the spray</p>
<p style="text-align: center;">66</p> <p>1 interpreter.)</p> <p>2 THE WITNESS: These -- these are two</p> <p>3 incidents, yeah, massage and --</p> <p>4 BY MS. CALEM:</p> <p>5 Q. Spray?</p> <p>6 A. (In English) -- spray.</p> <p>7 (Sotto voce discussion between witness and</p> <p>8 interpreter.)</p> <p>9 A. This incident of massage and the water spray, I</p> <p>10 don't remember exactly if they happened in</p> <p>11 January or December but only -- the thing that I</p> <p>12 remember, I went to First Aid, and at First Aid</p> <p>13 because my -- my eyes was aching and they report</p> <p>14 it and they called down to --</p> <p>15 Who, Rusty?</p> <p>16 THE WITNESS: (In English) They call</p> <p>17 personnel office.</p> <p>18 THE INTERPRETER: They called personnel.</p> <p>19 THE WITNESS: (In English) I don't know if</p> <p>20 it was Scott Reed to report it and they call</p> <p>21 Russell to come to sign this -- the document.</p> <p>22 BY MS. CALEM:</p> <p>23 Q. They called who, Russ to sign the document?</p> <p>24 A. (In English without translation of question)</p> <p>25 Uh-huh.</p>	<p style="text-align: center;">68</p> <p>1 incident?</p> <p>2 A. It happened before -- the massage happened before</p> <p>3 the spraying.</p> <p>4 Q. Did you have any other incidents involving Scott</p> <p>5 Genzler before this incident on February 19th?</p> <p>6 A. No. It's just those two.</p> <p>7 Q. All right. And then after the incident on the</p> <p>8 19th when you were talking to people from the</p> <p>9 union and from the personnel office, did you</p> <p>10 bring up either of those incidents, the massage</p> <p>11 or the spray?</p> <p>12 A. At that time I didn't bother to bring, like, two</p> <p>13 more case on top of the one that I had so I</p> <p>14 decide to just continue with the one that day at</p> <p>15 that moment.</p> <p>16 Q. All right. So we're back to the incident on</p> <p>17 February 19th and Scott has made these comments,</p> <p>18 two comments. Then what happened after he made</p> <p>19 the second comment?</p> <p>20 A. (In English) If you don't --</p> <p>21 THE INTERPRETER: Go ahead.</p> <p>22 A. (In English) -- want to work a job, you have to</p> <p>23 go back to your fucking country Africa.</p> <p>24 THE INTERPRETER: That's the next comment he</p> <p>25 made.</p>



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1 BY MS. CALEM:  
2 Q. And after he made the first statement, did you  
3 respond to him?  
4 A. No, I didn't.  
5 Q. What about the second statement, did you say  
6 anything to him after that?  
7 A. I was scared. I didn't respond.  
8 Q. And after he said, Go back to your fucking  
9 country Africa, did you say anything to him?  
10 A. No, I didn't say anything.  
11 Q. Okay. Did you speak to anybody else?  
12 A. I -- the only response -- the only time that I  
13 responded was when Yvette told me, this is a big  
14 problem, we got to go to church -- tomorrow is a  
15 Saturday. We go to -- we got to pray to God  
16 about this.  
17 THE WITNESS: (Speaking Swahili to  
18 interpreter.)  
19 Stop speaking fucking -- your language,  
20 speak fucking English.  
21 THE INTERPRETER: And I respond to him, You  
22 are right, and then he continued saying what the  
23 comment she just made.  
24 BY MS. CALEM:  
25 Q. So he heard Yvette speak to you in Swahili and

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1 you responded in Swahili --  
2 A. (In English without translation of question)  
3 Yeah.  
4 Q. -- and he made the comment, Stop speaking your  
5 language, speak English?  
6 A. (In English without translation of question)  
7 Fucking English.  
8 (Sotto voce discussion between witness and  
9 interpreter.)  
10 A. (In English) This is a free country, you can  
11 speak any language you want. (Through  
12 interpreter) And then I said, This is a free  
13 country, you can speak any language you want.  
14 Q. And did he say anything when you said that?  
15 A. No.  
16 Q. Did anyone else say anything to Scott during this  
17 time?  
18 A. Yes. After -- after a while, they switched,  
19 Lorena --  
20 THE WITNESS: (In English) Becky.  
21 THE INTERPRETER: Becky, sorry.  
22 Becky and Scott switch. Lorena came down  
23 and Scott went up so --  
24 BY MS. CALEM:  
25 Q. Becky came down --

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1 THE INTERPRETER: Yeah, Becky came down and  
2 Scott went up. So when Scott get there, he  
3 started pushing the meat. Like, one of them fell  
4 on my feet and another one hit Lorena --  
5 Lorena's hip, is it?  
6 THE WITNESS: (In English) Hip.  
7 THE INTERPRETER: -- hip. And Lorena ask  
8 me, what's going on, why are you bringing such  
9 attitude at a workplace.  
10 BY MS. CALEM:  
11 Q. And what did he say?  
12 A. At that moment he was quiet. He didn't say  
13 anything.  
14 Q. Okay. So he and Becky switched places. He went  
15 up to where he's supposed to push the hams down  
16 and he just kept pushing them hard and fast  
17 without looking to see if the sock was ready; is  
18 that correct?  
19 A. Yes.  
20 Q. Yes?  
21 A. Yes.  
22 Q. And one of them fell on your feet?  
23 A. Yes.  
24 Q. And one hit Lorena in the hips?  
25 A. Yes.

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1 Q. Did anything else happen after that?  
2 A. The time that we went today [sic], we took the  
3 last break, it was at 2:15. Yvette was in front  
4 of me, at that moment there was her, Yvette and  
5 Lorena.  
6 THE WITNESS: (In English) Lorena, Yvette,  
7 Becky, Scott and me.  
8 THE INTERPRETER: So Lorena, Yvette --  
9 THE WITNESS: Lor -- hold on. Lorena.  
10 THE INTERPRETER: There was --  
11 THE WITNESS: Lorena.  
12 THE INTERPRETER: Lorena.  
13 THE WITNESS: Yvette.  
14 THE INTERPRETER: Yvette.  
15 THE WITNESS: Scott.  
16 THE INTERPRETER: Scott.  
17 THE WITNESS: Me and Becky.  
18 THE INTERPRETER: And Becky. Yeah, yeah.  
19 BY MS. CALEM:  
20 Q. So there were five of you working that particular  
21 line?  
22 A. (In English without translation of question)  
23 Uh-huh. We were going to break --  
24 Q. Okay.  
25 A. -- and Scott, he said -- I heard it and Lorena.



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<p style="text-align: center;">73</p> <p>1 He said I was doing that because of these two</p> <p>2 monkeys.</p> <p>3 Q. Who did he say that to?</p> <p>4 A. (In English without translation of question)</p> <p>5 He said while we was walking.</p> <p>6 Q. While you were walking?</p> <p>7 A. (In English without translation of question).</p> <p>8 Her (indicating), she didn't hear anything,</p> <p>9 but me, I was -- I was -- I was heard it and --</p> <p>10 Q. And Lorena heard it?</p> <p>11 A. (In English without translation of question).</p> <p>12 Lorena and --</p> <p>13 MS. POCHOP: Becky?</p> <p>14 THE WITNESS: (In English) No. Eudoxio. So</p> <p>15 I don't know about --</p> <p>16 COURT REPORTER: Who was that?</p> <p>17 THE WITNESS: (In English) Eudoxio.</p> <p>18 MS. CALEM: It's E-u-d-o-x-i-o.</p> <p>19 A. (In English) So when we come back from break, I</p> <p>20 was really upset to be called monkey, because</p> <p>21 when I check over here (indicating), I don't have</p> <p>22 a tail. I was so mad. And Eudoxio, he came, he</p> <p>23 ask me, how are you going to do about this --</p> <p>24 this calling monkey. You're not going to go</p> <p>25 report? And she ask, did we get called monkey?</p>	<p style="text-align: center;">75</p> <p>1 A. (In English without translation of question)</p> <p>2 Because --</p> <p>3 Q. Was he there too?</p> <p>4 A. -- we are up so when we clip meat, the meat that</p> <p>5 go to Eudoxio, they're, like, downstairs so when</p> <p>6 the -- when the hams come, they take the hams and</p> <p>7 hang them in the tree --</p> <p>8 Q. Right.</p> <p>9 A. -- so when we was coming, where we come upstairs,</p> <p>10 we go always downstairs and we go all together.</p> <p>11 That's how.</p> <p>12 THE INTERPRETER: Eudoxio --</p> <p>13 (Sotto voce discussion between witness and</p> <p>14 interpreter.)</p> <p>15 THE WITNESS: (Speaking Swahili).</p> <p>16 THE INTERPRETER: Eudoxio was -- they would</p> <p>17 be -- they would be up, upstairs, and Eudoxio and</p> <p>18 Derek were downstairs, so when the time for break</p> <p>19 comes, they all go down so they meet -- the</p> <p>20 people up walking down, they meet the people</p> <p>21 downstairs and they walk together.</p> <p>22 BY MS. CALEM:</p> <p>23 Q. Okay. And everybody, that group was also going</p> <p>24 to break at the same time?</p> <p>25 THE INTERPRETER: Yeah.</p>
<p style="text-align: center;">74</p> <p>1 And he said -- and Eudoxio said, You didn't hear</p> <p>2 that? And I say, I heard that when he said we</p> <p>3 are monkey, say was doing this because we are</p> <p>4 monkey. So I said no. I have to report.</p> <p>5 But Rusty wasn't there, he was already</p> <p>6 leave, it was only Lisa. And I said Lisa, she's</p> <p>7 not supervisor, she's just a team leader, and</p> <p>8 when we get off work, we went to the union to</p> <p>9 report to union.</p> <p>10 Q. All right. So you heard Scott say, just in</p> <p>11 general just saying out loud, I did it because of</p> <p>12 those monkeys?</p> <p>13 A. (In English without translation of question)</p> <p>14 Yeah, we was walking to go to break.</p> <p>15 Q. Everybody was leaving to go to break?</p> <p>16 A. (In English without translation of question)</p> <p>17 Uh-huh.</p> <p>18 Q. So he wasn't talking to any one person in</p> <p>19 particular, he just said it out loud?</p> <p>20 A. (In English without translation of question)</p> <p>21 When he was in front of me, I don't know if</p> <p>22 he was talking to Lorena because Lorena, she keep</p> <p>23 asking her a question, why he was doing that</p> <p>24 because Lorena, she was upset, too.</p> <p>25 Q. Yeah. Where was Eudoxio?</p>	<p style="text-align: center;">76</p> <p>1 BY MS. CALEM:</p> <p>2 Q. So that's -- that's the way Eudoxio heard him say</p> <p>3 that?</p> <p>4 A. (In English) Yes. (Through interpreter) Yes.</p> <p>5 Q. And was there anybody else working with you,</p> <p>6 Becky, Scott and Lorena and Yvette who would have</p> <p>7 heard what Scott said?</p> <p>8 A. Yeah. Those are the people were present at the</p> <p>9 moment, they the ones who hear -- who heard that</p> <p>10 word being said.</p> <p>11 Q. Do you know if Lisa Christion was nearby enough</p> <p>12 to have heard him?</p> <p>13 A. At the moment I didn't -- I didn't have any view</p> <p>14 of Lisa around. I think she was in her office.</p> <p>15 Q. Okay. So you decided you would speak to a</p> <p>16 supervisor the following day; is that right?</p> <p>17 A. Yeah. After work, I went to union and I report</p> <p>18 it, and they told me they were going to, you</p> <p>19 know, pass that incident to the supervisor. And</p> <p>20 then but the next day, the supervisor call me --</p> <p>21 call her into his office --</p> <p>22 THE WITNESS: (In English) His office.</p> <p>23 THE INTERPRETER: His office.</p> <p>24 BY MS. CALEM:</p> <p>25 Q. It was Russ, right?</p>



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<p style="text-align: center;">77</p> <p>1 A. His office and ask us what happened.</p> <p>2 Q. And who in the union did you report it to?</p> <p>3 A. I don't know his name. He's a Sudanese guy but I</p> <p>4 don't know. He --</p> <p>5 Q. Was he someone -- was he a steward?</p> <p>6 A. She [sic] was a union worker office for the night</p> <p>7 shift.</p> <p>8 Q. Okay. But it was a Sudanese man?</p> <p>9 A. Yes.</p> <p>10 Q. In the union office for the night shift?</p> <p>11 A. (In English without translation of question)</p> <p>12 Yes.</p> <p>13 Q. All right. And then the next day, Russ called</p> <p>14 you into his office and started asking about what</p> <p>15 had happened?</p> <p>16 A. Yes.</p> <p>17 Q. And what time -- do you remember what time of day</p> <p>18 that was that Russ called you in?</p> <p>19 A. It was a Saturday on the 20th around 1 o'clock or</p> <p>20 1 --</p> <p>21 THE WITNESS: No. 7.</p> <p>22 THE INTERPRETER: I mean 7, not 1, sorry.</p> <p>23 7 -- 7 o'clock in the morning.</p> <p>24 BY MS. CALEM:</p> <p>25 Q. Seven in the morning.</p>	<p style="text-align: center;">79</p> <p>1 Q. He was there when you arrived?</p> <p>2 A. (In English without translation of question)</p> <p>3 I was already there, yeah.</p> <p>4 Q. All right. And what -- what happened in the</p> <p>5 meeting? What did Russ say and what did the</p> <p>6 other people say?</p> <p>7 A. They -- they asked me and I started explaining</p> <p>8 what happened. Then Lorena said, Sala, your</p> <p>9 English is kind of little bit broken, let me go</p> <p>10 ahead and explain to him what happened.</p> <p>11 Q. And did Lorena explain what happened accurately?</p> <p>12 A. Because I was already spoken and she elaborated</p> <p>13 to what I --</p> <p>14 Q. She elaborated?</p> <p>15 THE INTERPRETER: -- to what I, yeah.</p> <p>16 BY MS. CALEM:</p> <p>17 Q. And do you remember if Russ said anything when he</p> <p>18 heard what had happened?</p> <p>19 A. He asked Scott Gonzales, is it true you did this,</p> <p>20 and Scott Gonzales acknowledged it.</p> <p>21 Q. What else did people say?</p> <p>22 A. When -- when Russ say, you agree that he say</p> <p>23 that, so this incident, they have to go on -- on</p> <p>24 Monday to HR.</p> <p>25 Q. Did Scott apologize?</p>
<p style="text-align: center;">78</p> <p>1 THE INTERPRETER: In the morning.</p> <p>2 BY MS. CALEM:</p> <p>3 Q. All right. And what do you remember about that</p> <p>4 when Russ called you in? Who was there?</p> <p>5 THE INTERPRETER: It was her, Lorena,</p> <p>6 Yvette, Russ, Scott Gonzales [sic].</p> <p>7 BY MS. CALEM:</p> <p>8 Q. Scott Genzler?</p> <p>9 A. Scott Genzler, Thomas Anderson.</p> <p>10 THE WITNESS: Thomas Zuroff and Thomas</p> <p>11 Anderson.</p> <p>12 Q. Now, Tom Zuroff was the steward for</p> <p>13 Department 19, right?</p> <p>14 A. (In English without translation of question)</p> <p>15 Yes.</p> <p>16 Q. And so why was Tom Anderson in there?</p> <p>17 A. (In English without translation of question)</p> <p>18 I don't know who call him, because when --</p> <p>19 when I came from work, they was already inside</p> <p>20 and they call me but I don't know --</p> <p>21 Q. Okay.</p> <p>22 A. -- who called him inside.</p> <p>23 Q. Okay. You don't know how he got there?</p> <p>24 A. (In English without translation of question)</p> <p>25 No.</p>	<p style="text-align: center;">80</p> <p>1 A. (In English without translation of question)</p> <p>2 No.</p> <p>3 Q. Did Russ say anything about whether Scott's</p> <p>4 behavior was against the rules or inappropriate?</p> <p>5 A. (In English without translation of question)</p> <p>6 In that meeting?</p> <p>7 Q. Yes.</p> <p>8 A. (In English without translation of question)</p> <p>9 No.</p> <p>10 Q. Russ just said, well, you admitted you did this,</p> <p>11 it has to go to human resources?</p> <p>12 A. (In English without translation of question)</p> <p>13 Yes.</p> <p>14 Q. How long did that meeting last?</p> <p>15 A. (In English without translation of question).</p> <p>16 I think we left there, like, almost 7:30.</p> <p>17 I'm not exactly what time.</p> <p>18 Q. So maybe 10 minutes, 15 minutes?</p> <p>19 A. (In English without translation of question)</p> <p>20 Like 20 minutes to 25.</p> <p>21 Q. Twenty to 25 minutes. Do you remember anything</p> <p>22 else that anybody said during that meeting?</p> <p>23 A. No, no one else spoke.</p> <p>24 Q. But you don't remember anything else that Russ</p> <p>25 said?</p>



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<p style="text-align: center;">81</p> <p>1 A. The only thing he said, he said you admit that</p> <p>2 you say these words, so today is Saturday and</p> <p>3 Monday HR person -- personnel will be there so</p> <p>4 you're going to have to bring down to HR.</p> <p>5 Q. Did Russ say he would go to human resources or</p> <p>6 that you should go to human resources?</p> <p>7 A. He told us to go to.</p> <p>8 Q. He told you to go on Monday?</p> <p>9 THE INTERPRETER: Yeah, Monday.</p> <p>10 BY MS. CALEM:</p> <p>11 Q. And on Monday you went to human resources during</p> <p>12 your break, right?</p> <p>13 A. Yes.</p> <p>14 Q. What time was the break?</p> <p>15 A. It was at 9:05. That's when the break started.</p> <p>16 Q. And before you left to go to human resources, did</p> <p>17 you tell Russ or Gary, either supervisor, that</p> <p>18 you were going to human resources?</p> <p>19 A. Yeah. There wasn't anybody there at that time.</p> <p>20 Both of them were not in the office, so since</p> <p>21 they told us to go there and report it on Monday,</p> <p>22 we decide to take -- to take a break time time to</p> <p>23 go down there and report.</p> <p>24 Q. Okay. Did you leave any note for any of the</p> <p>25 supervisors saying we have gone to human</p>	<p style="text-align: center;">83</p> <p>1 MS. CALEM: 15.</p> <p>2 BY MS. CALEM:</p> <p>3 Q. Now, we had marked the earlier exhibit yesterday</p> <p>4 with Nimenya --</p> <p>5 COURT REPORTER: Oh, are you -- oh, I</p> <p>6 thought we weren't on the record. Are you on the</p> <p>7 record, or are you just saying that to me?</p> <p>8 MS. CALEM: We can stay on the record,</p> <p>9 that's fine.</p> <p>10 COURT REPORTER: Okay.</p> <p>11 MS. CALEM: I'm just thinking we should --</p> <p>12 starting with 14, we should just have Naambwe on</p> <p>13 them instead of Nimenya.</p> <p>14 COURT REPORTER: Yes. Yes.</p> <p>15 MS. CALEM: Okay, good.</p> <p>16 COURT REPORTER: So this one is 15.</p> <p>17 MS. CALEM: That will be 15.</p> <p>18 COURT REPORTER: Okay.</p> <p>19 (Naambwe Deposition Exhibit 15 marked.)</p> <p>20 Q. Ms. Naambwe, do you need a break, would you like</p> <p>21 a break?</p> <p>22 A. Do you want one?</p> <p>23 Q. No. I'm asking you, do you want one? You're the</p> <p>24 one that has to talk. It's fine with me to take</p> <p>25 a break if you would like one.</p>
<p style="text-align: center;">82</p> <p>1 resources, anything like that?</p> <p>2 A. No, I didn't do it since they knew I was going to</p> <p>3 go report it.</p> <p>4 Q. At any time before you went to report it, did you</p> <p>5 tell either supervisor, I'm going to go to human</p> <p>6 resources on my break?</p> <p>7 A. I didn't tell any supervisor.</p> <p>8 Q. Okay. And did you ask Lorena to come with you?</p> <p>9 A. I didn't ask -- I didn't ask her to come over</p> <p>10 there. They knew three of us that we should go</p> <p>11 report that incident downstairs so we decide all</p> <p>12 three of us to go. It's not like I beg or ask</p> <p>13 Lorena to come with.</p> <p>14 Q. You went to human resources, and what happened</p> <p>15 there?</p> <p>16 A. While I was in back over here, we thought it was</p> <p>17 like -- it would be one- or two-minute</p> <p>18 conversation, like a verbal -- verbal sort of</p> <p>19 conversation, but when we arrive there, Carrie</p> <p>20 handed to us a paper to write down the whole</p> <p>21 thing.</p> <p>22 Q. Okay. Let's take a look at that paper.</p> <p>23 Can you mark that next in order, please.</p> <p>24 And this would be Exhibit --</p> <p>25 COURT REPORTER: 15.</p>	<p style="text-align: center;">84</p> <p>1 A. No. Let's go.</p> <p>2 Q. Keep going?</p> <p>3 A. Yeah.</p> <p>4 Q. Okay. So you've been handed what's been marked</p> <p>5 as Exhibit 15 to your deposition. Is this the</p> <p>6 form that you filled out in human resources?</p> <p>7 THE INTERPRETER: She's said this is not</p> <p>8 my -- my writing, but I told her that's your name</p> <p>9 on it.</p> <p>10 BY MS. CALEM:</p> <p>11 Q. Yeah. I'm looking at the top left. It's your</p> <p>12 name. Why don't you look at it, and because the</p> <p>13 description is the same as the one that you've</p> <p>14 given me and it says that the meat fell under my</p> <p>15 feet. So take a minute and look at it.</p> <p>16 MS. POCHOP: While she's doing that, I might</p> <p>17 take a break.</p> <p>18 MS. CALEM: Let's take a break.</p> <p>19 MS. POCHOP: Go ahead and read it.</p> <p>20 THE WITNESS: Okay.</p> <p>21 THE VIDEOGRAPHER: We're going off the</p> <p>22 record. We're going off the record. It's now</p> <p>23 10:51 a.m.</p> <p>24 (A recess was taken at this time.)</p> <p>25 (Lisa Marso is not present in the room.)</p>



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1 THE VIDEOGRAPHER: We're back on the record.  
2 It's now 11:05.  
3 MS. CALEM: Thank you, Doug.  
4 BY MS. CALEM:  
5 Q. All right. So we're back on the record, and when  
6 we left off, I had handed you Exhibit 15 at which  
7 I thought was the report that you had filled out  
8 in human resources on that Monday that you went  
9 in to make the report. And you're saying you  
10 don't recognize this?  
11 A. To speak the truth, this handwriting is not mine.  
12 And I went downstairs, I spoke, I say what I saw,  
13 and everything -- everything that is written here  
14 is true for what I said but I did not write this  
15 paper. But the only person that I saw writing --  
16 writing was Lorena but the paper he was writing  
17 on is not this. It was a blank paper without  
18 any --  
19 COURT REPORTER: It was a what paper?  
20 THE INTERPRETER: Blank. There wasn't  
21 any --  
22 BY MS. CALEM:  
23 Q. If you look at the second page --  
24 THE INTERPRETER: B-l-a-n-k, blank paper,  
25 there wasn't anything on it.

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1 Q. -- there's a piece of blank paper. Do you think  
2 this could have been what saw Lorena writing, the  
3 second page?  
4 A. It was like this, but whatever he wrote on  
5 there -- I mean, she wrote on there was more than  
6 this.  
7 Q. I see. So your testimony is you did not write  
8 anything on Exhibit 15?  
9 A. What's written here is the truth of my testimony  
10 but this handwriting is not mine.  
11 Q. Who do you think wrote it?  
12 A. I don't know whose handwriting it is.  
13 Q. It's written from your point of view. It says  
14 that the meat fell on my feet.  
15 A. When Scott recall me, that's exactly how I said  
16 it. Whatever is written is how I exact said it.  
17 Q. I don't understand that answer.  
18 A. (In English without translation of question)  
19 Okay. I said the question you ask here  
20 about I said that the meat was on my feet, yes, I  
21 said that, because when he called me in the  
22 office to interview me about this incident,  
23 that's what I say.  
24 Q. Okay. So this is accurate, it's just not your  
25 writing?

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1 A. (In English without translation of question)  
2 It's not mine.  
3 Q. All right. And I notice here under list any  
4 witnesses, it says Lorena Morales, Yvette  
5 Nimenya, Eudoxio and Terry. Was Terry a witness  
6 to this incident?  
7 A. That's why I say I didn't -- I didn't write this  
8 paper because Terry, the place that he is is way  
9 far away. He couldn't have heard anything or  
10 seen anything on that day so that's why I say  
11 this is not mine.  
12 Q. All right. Well, we have a little mystery about  
13 Exhibit 15, then.  
14 So let's continue, then, with the chronology  
15 of that day. You are in human resources and I  
16 understand Russ came in. Is that true?  
17 A. We -- we were in a little entrance, small  
18 entrance in the personnel -- personnel area, but  
19 Rusty use First-Aid entrance.  
20 THE WITNESS: (In English) First-Aid.  
21 A. First-Aid entrance. And then he -- he got --  
22 THE WITNESS: (In English) Through to  
23 office.  
24 A. Through to the office and he got --  
25 Who, Carrie?

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1 THE WITNESS: (In English) Yes.  
2 A. -- He got Carrie, and they all came toward us in  
3 the personnel area and they were all looking at  
4 me --  
5 THE WITNESS: (In English) And yelling.  
6 A. And yelling at me.  
7 Q. Who was yelling?  
8 A. Both Carrie and Rusty.  
9 Q. Together?  
10 A. Yes.  
11 Q. At the same time they were yelling?  
12 A. (By witness in English and Swahili).  
13 Q. Okay. So Carrie --  
14 COURT REPORTER: Wait, wait. I need him  
15 to --  
16 MS. CALEM: Oh, okay.  
17 A. He said, You come here to report somebody and  
18 then you left the line without anybody on it and  
19 you guys came here to report somebody is the  
20 reason you're here?  
21 Q. And was that what Carrie said?  
22 A. Yes.  
23 Q. That you all left the line to report somebody?  
24 A. (In English without translation of question)  
25 Yeah.



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<p style="text-align: center;">89</p> <p>1 Q. And she sounded angry?</p> <p>2 A. They were angry and they said, You guys came down</p> <p>3 here because to -- because of reporting, somebody</p> <p>4 reporting this -- you know, reporting this</p> <p>5 incident. Is that the reason you came here? You</p> <p>6 left the line without anybody, with an angry</p> <p>7 tone.</p> <p>8 Q. With an angry tone?</p> <p>9 THE INTERPRETER: Yeah.</p> <p>10 BY MS. CALEM:</p> <p>11 Q. What did Russ say?</p> <p>12 A. That's --</p> <p>13 THE WITNESS: (In English) Rusty.</p> <p>14 A. -- Rusty say, I told you to forgive him.</p> <p>15 Q. I told you to forgive him?</p> <p>16 A. (In English) I thought. (Through interpreter) I</p> <p>17 thought you forgave him.</p> <p>18 Q. I thought you forgave him?</p> <p>19 A. (In English without translation of question)</p> <p>20 Uh-huh.</p> <p>21 THE INTERPRETER: And you say?</p> <p>22 THE WITNESS: No. (Speaking Swahili).</p> <p>23 THE INTERPRETER: No. We haven't spoken</p> <p>24 about forgiveness. That's what she replied.</p> <p>25 BY MS. CALEM:</p>	<p style="text-align: center;">91</p> <p>1 where he's asking me, he told me, and I said,</p> <p>2 yes, before we went to report on Saturday after</p> <p>3 we left meeting in the office. I was on the line</p> <p>4 working. That's when Russ come to me and ask me,</p> <p>5 are you still want to go to personnel office on</p> <p>6 Monday, and I said, yes, I still want to go to</p> <p>7 personnel office on Monday.</p> <p>8 BY MS. CALEM:</p> <p>9 Q. Okay. And that was after the meeting in his</p> <p>10 office?</p> <p>11 A. (In English without translation of question)</p> <p>12 Right.</p> <p>13 Q. And he came up and he was on the line, he said</p> <p>14 are you still going to go to personnel Monday?</p> <p>15 A. (In English without translation of question)</p> <p>16 Right.</p> <p>17 Q. And you said yes, I am?</p> <p>18 A. (In English without translation of question)</p> <p>19 Right.</p> <p>20 Q. Any other conversation?</p> <p>21 A. (In English without translation of question)</p> <p>22 No.</p> <p>23 Q. Did anybody hear the two of you talking?</p> <p>24 A. (In English without translation of question)</p> <p>25 It was between me and him.</p>
<p style="text-align: center;">90</p> <p>1 Q. Did -- when you met with Russ the day before, did</p> <p>2 Russ say anything about forgiving?</p> <p>3 A. He asked me, are you still want to go to the</p> <p>4 personnel office and I say yes.</p> <p>5 Q. Did he ask Scott to apologize to you when you</p> <p>6 were meeting in his office?</p> <p>7 A. No.</p> <p>8 Q. Okay. Well, when we talked earlier, you said</p> <p>9 that he -- he said, well, Scott, you admitted it</p> <p>10 so this has to go to the personnel office on</p> <p>11 Monday.</p> <p>12 A. Yes.</p> <p>13 Q. So now your testimony is that he also said, do</p> <p>14 you still want to go to the personnel office?</p> <p>15 A. On the same Saturday, that -- that question he</p> <p>16 asked me, when he asked me, he posed me that</p> <p>17 question, I was on the line working. He came and</p> <p>18 he asked me, are you still want to go report this</p> <p>19 incident down to HR.</p> <p>20 Q. And that was later on when you were working on</p> <p>21 the line?</p> <p>22 THE INTERPRETER: She wants to text -- to</p> <p>23 tell you exactly.</p> <p>24 A. (In English) Because you ask me that before I</p> <p>25 went to -- to report it is not any -- anything</p>	<p style="text-align: center;">92</p> <p>1 Q. Okay. Understand. And then when he came up --</p> <p>2 when he -- on Monday when he came into the</p> <p>3 personnel office, your testimony is he said, I</p> <p>4 thought you forgave him?</p> <p>5 A. (In English without translation of question)</p> <p>6 Right.</p> <p>7 Q. Okay. Did he -- when he spoke to you on Saturday</p> <p>8 on the line, did he say anything about forgiving?</p> <p>9 A. (In English without translation of question)</p> <p>10 I can't remember.</p> <p>11 Q. Okay. So Russ and Carrie said these things.</p> <p>12 What happened next?</p> <p>13 A. And Carrie said, You guys should get a warning,</p> <p>14 because we came to report a person and then we</p> <p>15 left the job.</p> <p>16 Q. And at that point in time, were you late -- late</p> <p>17 from getting back from your break?</p> <p>18 A. It wasn't like -- it was, like, two minute before</p> <p>19 break -- break -- break was over.</p> <p>20 Q. How do you know it was two minutes before break</p> <p>21 was over?</p> <p>22 (Sotto voce discussion between witness and</p> <p>23 interpreter.)</p> <p>24 A. (In English) Okay. Let me explain a little.</p> <p>25 THE INTERPRETER: I said it -- I thought it</p>



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<p style="text-align: center;">93</p> <p>1 was before -- before the break time but it was,</p> <p>2 like, two minute after.</p> <p>3 BY MS. CALEM:</p> <p>4 Q. Two minutes after was break over?</p> <p>5 THE INTERPRETER: Yeah.</p> <p>6 A. (In English without translation of question)</p> <p>7 Yeah. But we don't know, to me by myself,</p> <p>8 because when Russ came inside and the -- and the</p> <p>9 Carrie, I was already panic, you know. See the</p> <p>10 way somebody cuss me out and I don't have the</p> <p>11 right to come to explain to my -- my -- my</p> <p>12 parents because they're like my parent. We like</p> <p>13 their children. So when I came to report to my</p> <p>14 parent, I got punish and somebody yell at me,</p> <p>15 look at me like I'm trash, so I didn't even pay</p> <p>16 attention to find out what time it was. I was</p> <p>17 confused.</p> <p>18 Q. That's fine. So you just weren't sure of the</p> <p>19 time, but they came in and they said you were not</p> <p>20 back when break was over. Is that --</p> <p>21 A. (In English without translation of question).</p> <p>22 Right.</p> <p>23 Q. Okay.</p> <p>24 A. (In English without interpreter) No, they -- no,</p> <p>25 they didn't say that. They say we left the line</p>	<p style="text-align: center;">95</p> <p>1 Right.</p> <p>2 Q. Okay. But when they came, they said the line</p> <p>3 stopped?</p> <p>4 A. Right.</p> <p>5 Q. Okay. So it may have stopped for a little while,</p> <p>6 but what your testimony is, when you got back</p> <p>7 down there, it was running again?</p> <p>8 A. Right.</p> <p>9 Q. Okay. And how long -- Well, strike that. After</p> <p>10 they came in the department and into the</p> <p>11 personnel department, how long was it before you</p> <p>12 went back down to the line?</p> <p>13 THE INTERPRETER: Say that again.</p> <p>14 BY MS. CALEM:</p> <p>15 Q. When Russ and Carrie came in and were yelling, as</p> <p>16 you said, how much time passed before you went</p> <p>17 back down to the line?</p> <p>18 A. Like I said, I was kind of upset so I'm not -- I</p> <p>19 cannot tell you exactly how long it would be.</p> <p>20 Q. That's fine. But you did go back to the line,</p> <p>21 right?</p> <p>22 A. Yes.</p> <p>23 Q. And did you then get a warning from Russ?</p> <p>24 A. He came and he find me in the dressing room where</p> <p>25 I was dressing, putting on my work -- working</p>
<p style="text-align: center;">94</p> <p>1 when we went to report to someone. We should not</p> <p>2 left the line and go to report someone so we have</p> <p>3 to be write up and, yes, we got a warning.</p> <p>4 Q. Okay. And when they came in, did either of them</p> <p>5 say anything about the line having been stopped</p> <p>6 because the three of you did not get back from</p> <p>7 break on time.</p> <p>8 Let -- let her -- She can answer, I think,</p> <p>9 right?</p> <p>10 A. (In English without translation of question)</p> <p>11 For how long was it stopped?</p> <p>12 Q. I'm just asking, did they say anything, the line</p> <p>13 is stopped because you didn't get back on time?</p> <p>14 A. (In English) Yeah, they say that the line was</p> <p>15 stopping. Because when we came back, the line</p> <p>16 was running --</p> <p>17 Q. Okay.</p> <p>18 A. -- because have extra people in that department.</p> <p>19 We have, like, you call, what, utility people and</p> <p>20 extra people. So when someone is not there, they</p> <p>21 can't stop the line because I'm not there. The</p> <p>22 line was running. It was working.</p> <p>23 Q. Okay. So at some point, they found some extra</p> <p>24 people to go on the line?</p> <p>25 A. (In English without translation of question)</p>	<p style="text-align: center;">96</p> <p>1 gear, and he said -- he came and handed me a</p> <p>2 paper and he said, here's your warning, you got</p> <p>3 to get a warning. And then I ask him, are you</p> <p>4 giving me a warning because I'm a monkey? He</p> <p>5 said, no, Lorena and Yvette already got a</p> <p>6 warning, you got to get one, too.</p> <p>7 Q. And do you still have that piece of paper?</p> <p>8 A. I didn't accept it. I just took the paper and I</p> <p>9 fold it and throw it in the garbage, throw it</p> <p>10 away in the garbage. He said do whatever you</p> <p>11 want. It is on record.</p> <p>12 Q. Was anyone else present when Russ came to you and</p> <p>13 gave you the warning?</p> <p>14 A. I was -- I was by myself in the dressing, in</p> <p>15 there.</p> <p>16 Q. Were you told later on that the warning had been</p> <p>17 removed?</p> <p>18 A. I heard from someone, Lorena, I heard from Lorena</p> <p>19 say, thank you, God, they erased my -- my</p> <p>20 warning. So I didn't know if they erased</p> <p>21 Lorena's warning only or if they erased all of</p> <p>22 ours' warnings.</p> <p>23 Q. When did you hear Lorena say that?</p> <p>24 THE INTERPRETER: It was -- she's guessing.</p> <p>25 It was maybe after two weeks.</p>



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1 BY MS. CALEM:  
2 Q. After two weeks?  
3 THE INTERPRETER: Yeah.  
4 BY MS. CALEM:  
5 Q. So I'm going to hand you what was marked as  
6 Exhibit 8 yesterday, and it is some notes that  
7 say that at a meeting you were told that you  
8 were -- warning was being removed. So I'm  
9 just -- I know you probably haven't seen that  
10 document before except here, but I just wondered  
11 if it refreshed your memory about a meeting where  
12 you, Lorena and Yvette and Tom Anderson and Tom  
13 Zuroff were present where you were told the  
14 warning would be removed.  
15 THE INTERPRETER: And who was the other  
16 Thomas?  
17 MS. CALEM: Zuroff.  
18 THE INTERPRETER: Zuroff.  
19 A. I don't remember.  
20 BY MS. CALEM:  
21 Q. All right. That's fine. You can hand that back.  
22 A. (Complies.)  
23 Q. All right. So when Russ gave you the warning,  
24 was it signed by anybody from the union, do you  
25 remember?

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1 A. In the beginning, when we were on HR when they  
2 all came, there wasn't any union personally  
3 present. And when he came and hand it to me that  
4 warning, there wasn't anybody. I didn't even  
5 bother to look at the handwriting if it was  
6 somebody from the union because I was already  
7 upset.  
8 Q. All right. Did you at any point in time learn  
9 that Scott Genzler had been given some discipline  
10 because of the incident?  
11 A. I didn't -- I didn't know if he got a warning but  
12 I heard from people saying that he got a warning,  
13 but I believe if he got the warning, he shouldn't  
14 be laughing at us say, haha, you get -- you went  
15 to HR office report to me but instead -- instead  
16 you got a warning.  
17 MS. CALEM: Let's mark this next in order.  
18 (Naambwe Deposition Exhibit 16 marked.)  
19 Q. Okay. You've been handed what's been marked as  
20 Exhibit 16. This is a disciplinary action form  
21 for Scott Genzler. Have you ever seen this  
22 before?  
23 A. Never.  
24 Q. Okay. So you heard through other people that he  
25 got disciplined?

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1 A. (In English without translation of question)  
2 Yep.  
3 Q. But he was laughing at you because you got a  
4 warning?  
5 A. (In English without translation of question)  
6 Yep.  
7 Q. Do you know if anybody ever told him that your  
8 warning was removed?  
9 A. So nobody told me anything. Since I didn't tell  
10 anybody about my warning, how could I know  
11 someone else warning?  
12 Q. That's fine. Just asking. Do you know if Scott  
13 got any other discipline? Like, for instance,  
14 did you know that he was removed from the P-I-T  
15 committee?  
16 THE INTERPRETER: T-I -- T-I-T, right?  
17 MS. CALEM: P-I-T.  
18 THE INTERPRETER: P-I-T.  
19 The committee that you just mentioned, PIT,  
20 that's the first time she heard that so she don't  
21 know what that is or what they do.  
22 BY MS. CALEM:  
23 Q. Okay. It's like a safety committee.  
24 A. I don't know. I don't know that.  
25 Q. All right. So I understand that after this,

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1 though, you were called into some additional  
2 meetings with Scott Reed and Tom Anderson and  
3 maybe some other people. Do you remember that?  
4 A. Would you specify what kind of meetings?  
5 Q. Yeah. It was just a meeting on the 29th of  
6 February and Scott Reed had been speaking to the  
7 union people including Tom Anderson. And, let's  
8 see, Rick Stok -- Stokke was at that meeting also  
9 and Scott Genzler and Russ Hultman. And the  
10 notes say you were called into that meeting to  
11 talk again about what happened. Do you have any  
12 memory of that?  
13 (Sotto voce discussion between witness and  
14 interpreter.)  
15 THE WITNESS: (In English) Zuroff or  
16 Anderson?  
17 MS. CALEM: Tom Anderson.  
18 A. I wasn't present at that meeting because the  
19 meeting that I was, that Thomas -- that Tom  
20 Anderson wasn't present.  
21 Q. All right. Were you called in to -- do you  
22 remember being called into any other meeting  
23 relating to this incident?  
24 A. (In English) Let me explain a little bit my  
25 broken English. He will tell you. I'm so sorry.



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<p style="text-align: center;">101</p> <p>1 Q. You don't have to apologize because we do</p> <p>2 understand you so it's fine.</p> <p>3 THE WITNESS: (In English) Okay. If they</p> <p>4 make a meeting is because HR, they didn't want to</p> <p>5 listen of this incident and I keep talk to union</p> <p>6 because like Thomas -- Thomas -- Thomas Zuroff,</p> <p>7 when you bring -- you bring a report on him, he</p> <p>8 never done anything. He never talk to Gary, he</p> <p>9 never tell Gary anything, okay. So I decided to</p> <p>10 go to tell Tom to bring this report because it</p> <p>11 was hurt me when Gonzales [sic], he see me, he</p> <p>12 was laughing. I was almost quit that time, you</p> <p>13 know. And, you know, sometime and I quit to go</p> <p>14 to -- I was just, like, crazy to be called monkey</p> <p>15 and this and I got a warning and somebody who</p> <p>16 called me monkey, this and that, he keep laughing</p> <p>17 on me.</p> <p>18 So I keep call people to helping me so he</p> <p>19 can learn how to call another people, even I'm</p> <p>20 black, I'm not -- That not mean a monkey, all</p> <p>21 right. So maybe that -- that meeting, they was</p> <p>22 talking before they call me. And I even call</p> <p>23 Scott Reed and I make appointment with him so I</p> <p>24 can meet him to explain what happened. He know</p> <p>25 that.</p>	<p style="text-align: center;">103</p> <p>1 Q. And did you speak to him?</p> <p>2 A. (In English without translation of question).</p> <p>3 Yes.</p> <p>4 Q. And what did you tell him?</p> <p>5 A. (In English without translation of question)</p> <p>6 Who?</p> <p>7 Q. Scott Reed.</p> <p>8 A. (In English without translation of question)</p> <p>9 About?</p> <p>10 THE INTERPRETER: (Translating in Swahili)</p> <p>11 BY MS. CALEM:</p> <p>12 Q. You said you made an appointment to speak to</p> <p>13 Scott Reed.</p> <p>14 A. (In English without translation of question)</p> <p>15 Yes.</p> <p>16 Q. And did you go speak to Scott Reed?</p> <p>17 A. (In English without translation of question)</p> <p>18 I speak with Scott Reed about this incident</p> <p>19 happen me -- between me and Gonzales.</p> <p>20 Q. And you told him how you felt, how hurt you felt?</p> <p>21 A. (In English without translation of question)</p> <p>22 Right.</p> <p>23 Q. And what did Scott say?</p> <p>24 A. (In English without translation of question)</p> <p>25 He say he'll work it up.</p>
<p style="text-align: center;">102</p> <p>1 Q. Yes.</p> <p>2 THE WITNESS: (In English) But this one you</p> <p>3 said Thomas Anderson with Rusty, Rick, I wasn't</p> <p>4 at that meeting, because when they call me, I</p> <p>5 didn't see Thomas Anderson in that meeting. I</p> <p>6 think. That's what I'm thinking. I don't know.</p> <p>7 Q. Okay. So I have some notes from human resources</p> <p>8 that -- and they say that there was a meeting in</p> <p>9 Scott Reed's office, February 29th, and Scott</p> <p>10 Genzler came in there and he was told that his</p> <p>11 actions were inappropriate. Tom Anderson wanted</p> <p>12 you to come in to tell your story and they called</p> <p>13 you to come in.</p> <p>14 A. (In English without translation of question)</p> <p>15 I think they call me after he left and</p> <p>16 Gonzales left, because when I came in, I didn't</p> <p>17 see Gonzales or Thomas. And when I go to see</p> <p>18 Scott Reed, we make appointment with him. I call</p> <p>19 him and that number I call -- sorry, I call him,</p> <p>20 I got it from the union, from union office that</p> <p>21 said call this number, that's Scott Reed number.</p> <p>22 And I call Scott Reed's number. I said, please,</p> <p>23 can you please just give me a moment so I can</p> <p>24 speak with you about something hurt me so bad and</p> <p>25 he said okay, Sala, come here 5:30.</p>	<p style="text-align: center;">104</p> <p>1 Q. He will what?</p> <p>2 A. (In English) He will work -- (Speaking Swahili</p> <p>3 to interpreter.)</p> <p>4 THE INTERPRETER: He'll be working on it.</p> <p>5 MS. CALEM: He'll be working on it, okay.</p> <p>6 THE INTERPRETER: Yeah.</p> <p>7 BY MS. CALEM:</p> <p>8 Q. Okay. And, in fact, we have notes that show that</p> <p>9 Scott was working on it and he had several</p> <p>10 meetings with union people and with Russ and Dave</p> <p>11 Hillberg. You were not at a lot of those</p> <p>12 meetings, but his notes say that he did bring you</p> <p>13 into one more meeting when there were several</p> <p>14 other people. Do you remember that?</p> <p>15 A. The only time that I was called in a meeting was</p> <p>16 that time when I -- when I -- when I went in</p> <p>17 there and at that time Gonzales --</p> <p>18 MS. CALEM: Genzler.</p> <p>19 A. -- Genzler was in there and Tom wasn't, wasn't</p> <p>20 present. That is the only time that --</p> <p>21 Q. And who was there?</p> <p>22 A. There was Rick and him (indicating), Scott Reed.</p> <p>23 THE WITNESS: (Speaking Swahili).</p> <p>24 Q. David Hillberg?</p> <p>25 A. (In English without translation of question)</p>



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<p style="text-align: center;">105</p> <p>1 I guess. That's what I'm thinking. I can't</p> <p>2 remember too much but I remember him and Rick.</p> <p>3 Q. So you remember being called into a meeting with</p> <p>4 Scott and Rick?</p> <p>5 A. (In English without translation of question)</p> <p>6 Yeah.</p> <p>7 Q. And maybe David Hillberg?</p> <p>8 A. (In English without translation of question)</p> <p>9 I guess.</p> <p>10 Q. But you don't think Scott Genzler was there?</p> <p>11 A. There wasn't that many people in that room.</p> <p>12 Gonzales was in there.</p> <p>13 THE WITNESS: Maybe -- maybe I forgot.</p> <p>14 COURT REPORTER: Was in there or wasn't?</p> <p>15 THE INTERPRETER: Was in.</p> <p>16 BY MS. CALEM:</p> <p>17 Q. Yeah. The notes from human resources say that</p> <p>18 Scott was there and he apologized. Do you</p> <p>19 remember that?</p> <p>20 A. (In English without translation of question)</p> <p>21 Never.</p> <p>22 Q. Do you remember being told that the union people</p> <p>23 were going to be circulating in your department</p> <p>24 to make sure that there were no other incidents</p> <p>25 like this?</p>	<p style="text-align: center;">107</p> <p>1 to be more respectful. Do you remember telling</p> <p>2 Carrie that?</p> <p>3 A. (In English without translation of question).</p> <p>4 Yes.</p> <p>5 Q. And that when a machine breaks down, he will come</p> <p>6 up and push you out of way and say, Get the fuck</p> <p>7 out of the way?</p> <p>8 A. (In English without translation of question).</p> <p>9 Yes.</p> <p>10 Q. But Gary had not done that that week. Is that</p> <p>11 the way Gary was as a supervisor?</p> <p>12 A. (In English without translation of question)</p> <p>13 Exactly.</p> <p>14 Q. From the start, from when you were working with</p> <p>15 him?</p> <p>16 A. (In English without translation of question)</p> <p>17 Yes.</p> <p>18 Q. Does he do this to all -- all employees is he</p> <p>19 like that?</p> <p>20 A. (In English without translation of question)</p> <p>21 Yes.</p> <p>22 Q. Is he like that?</p> <p>23 A. (In English without translation of question)</p> <p>24 Yes.</p> <p>25 Q. Have other employees complained about him --</p>
<p style="text-align: center;">106</p> <p>1 THE INTERPRETER: She's asking who say</p> <p>2 that?</p> <p>3 BY MS. CALEM:</p> <p>4 Q. I'm just asking if you heard from anybody.</p> <p>5 A. Nobody ever told me such thing.</p> <p>6 Q. Did anybody from the union ever tell you that</p> <p>7 they had spoken to Scott Reed about the incident?</p> <p>8 A. There wasn't anybody at all from union who told</p> <p>9 me that because I was already spoken to Scott</p> <p>10 Reed so there was no need for the -- for --</p> <p>11 with union -- the union people.</p> <p>12 Q. Do you remember Carrie Moate speaking to you</p> <p>13 afterwards to find out if Scott had done anything</p> <p>14 else like this again?</p> <p>15 THE INTERPRETER: Carrie Moate?</p> <p>16 MS. CALEM: (Indicating).</p> <p>17 A. Yeah. He asked me if Scott Gonzales did the same</p> <p>18 thing again and I told him, no, I hadn't see him</p> <p>19 doing it.</p> <p>20 Q. You told Carrie you have not seen him do it</p> <p>21 again; is that right?</p> <p>22 A. (In English) Yes. (Through interpreter) Yes.</p> <p>23 Q. So Carrie's memo says that on March 4th she spoke</p> <p>24 to you and you said you haven't had any issues</p> <p>25 this week but you wanted to add that Gary needs</p>	<p style="text-align: center;">108</p> <p>1 A. (In English without translation of question)</p> <p>2 Well --</p> <p>3 Q. -- that you know of?</p> <p>4 A. -- I know, like, Anna (sp), she tried to complain</p> <p>5 but a lot of people get scared to think when they</p> <p>6 go to complain, they're going to have a</p> <p>7 suspending or a warning so people just walk like</p> <p>8 that, like tight, or with their things on their</p> <p>9 arm, they're scared to go to report because they</p> <p>10 know this person they went to report, he got a</p> <p>11 warning, he got a suspended. Especially me, my</p> <p>12 problem everybody can't go, anyone, to HR to go</p> <p>13 report because they scared. Every time I go over</p> <p>14 there, I have a suspended, I have a warning.</p> <p>15 Q. I'm just asking if you know of anybody who went</p> <p>16 to complain about Gary.</p> <p>17 A. (In English without translation of question)</p> <p>18 I don't know if some people that went to</p> <p>19 complain about Gary, but I saw it and I heard it</p> <p>20 by myself, how he does in the department.</p> <p>21 Q. And let's see. You joined Department 19 in 2014?</p> <p>22 A. (In English without translation of question)</p> <p>23 Right. August. I think it was in August</p> <p>24 2014.</p> <p>25 Q. And Gary and Russ were the two supervisors there?</p>



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<p style="text-align: center;">109</p> <p>1 A. (In English without translation of question)</p> <p>2 <b>Right.</b></p> <p>3 Q. And Gary was like that with all employees?</p> <p>4 A. (In English without translation of question)</p> <p>5 Yes. Well, he have some favorite employees.</p> <p>6 It's not all employees. He had some favorite and</p> <p>7 especially woman, oh, no, to him is woof.</p> <p>8 Q. He doesn't like women?</p> <p>9 A. (In English without translation of question)</p> <p>10 No.</p> <p>11 Q. Talking back to him?</p> <p>12 A. (In English without translation of question)</p> <p>13 Yes.</p> <p>14 Q. So is Gary the kind of person that if you argue</p> <p>15 with him, he gets very angry?</p> <p>16 A. (In English without translation of question)</p> <p>17 And he don't like a report.</p> <p>18 Q. He doesn't like to be --</p> <p>19 A. (In English without translation of question)</p> <p>20 To report. When someone do something wrong</p> <p>21 and he don't want it to go to him and say, look</p> <p>22 at this person, he do this to me, he don't like</p> <p>23 that --</p> <p>24 Q. He doesn't like --</p> <p>25 A. -- he start at yelling you back.</p>	<p style="text-align: center;">111</p> <p>1 order, he just wants people to follow the order?</p> <p>2 A. <b>Gary, in my point of view, I don't think he</b></p> <p>3 <b>follow the company guidelines. Whatever he want</b></p> <p>4 <b>to be done, in his head is what he -- whatever he</b></p> <p>5 <b>wants done, he want that to be done like as he</b></p> <p>6 <b>want.</b></p> <p>7 Q. Do you know if Carrie spoke to Lorena or Yvette</p> <p>8 to ask them if things were going okay?</p> <p>9 THE INTERPRETER: Gary?</p> <p>10 MS. CALEM: Carrie.</p> <p>11 A. I don't know that part.</p> <p>12 BY MS. CALEM:</p> <p>13 Q. Do you remember that Dave Hillberg attended a</p> <p>14 safety meeting on March 8th to speak to the</p> <p>15 department about respectful communications?</p> <p>16 A. Yes.</p> <p>17 Q. Do you remember what was said in the meeting?</p> <p>18 A. He was speaking about inappropriate --</p> <p>19 inappropriate touching of some certain behavior</p> <p>20 and disrespectful at work. That's kind of --</p> <p>21 that was his main theme about me.</p> <p>22 Q. Was the whole department there?</p> <p>23 A. Yeah. We all -- we were all required to get</p> <p>24 there.</p> <p>25 Q. Do you remember Scott Reed giving a talk at a</p>
<p style="text-align: center;">110</p> <p>1 Q. He doesn't want to be bothered with any trouble?</p> <p>2 A. (In English without translation of question)</p> <p>3 Yeah.</p> <p>4 Q. <b>So you think Gary's just a very bad supervisor;</b></p> <p>5 <b>is that right?</b></p> <p>6 <b>THE WITNESS: (Speaking in Swahili to</b></p> <p>7 <b>interpreter.)</b></p> <p>8 Q. <b>It's okay to say it if that's what you think.</b></p> <p>9 A. <b>He doesn't have respect.</b></p> <p>10 Q. <b>He doesn't have respect?</b></p> <p>11 A. <b>He does not respect.</b></p> <p>12 <b>THE WITNESS: (Speaking in Swahili).</b></p> <p>13 A. <b>He doesn't respect women.</b></p> <p>14 Q. Have you seen -- have you spoken to any women who</p> <p>15 say that Gary is not a problem for them?</p> <p>16 THE INTERPRETER: Is not a problem?</p> <p>17 MS. CALEM: Not a problem, they like him.</p> <p>18 A. I never seen anybody say.</p> <p>19 BY MS. CALEM:</p> <p>20 Q. <b>Have you seen Gary yell at men?</b></p> <p>21 A. <b>No, never.</b></p> <p>22 Q. Never seen Gary yell at men?</p> <p>23 A. Oh, they -- they got a little kind of verbal</p> <p>24 conflict with Eudoxio.</p> <p>25 Q. Is Gary the kind of person when he gives an</p>	<p style="text-align: center;">112</p> <p>1 safety meeting in October of 2016 to talk about</p> <p>2 harassment and respectful communications?</p> <p>3 THE INTERPRETER: October 20 -- October</p> <p>4 what?</p> <p>5 MS. CALEM: October 2016.</p> <p>6 A. Yes, I do.</p> <p>7 BY MS. CALEM:</p> <p>8 Q. Do you remember how long he spoke for?</p> <p>9 A. Since I didn't have a watch, I can't tell how</p> <p>10 long he spoke but he spoke.</p> <p>11 Q. Did you say anything during that meeting where</p> <p>12 Scott spoke, Scott Reed?</p> <p>13 A. I didn't say anything.</p> <p>14 Q. At the safety meeting that Dave Hillberg spoke</p> <p>15 at, did you say anything at that meeting?</p> <p>16 A. No, I didn't say anything.</p> <p>17 Q. Before this incident with Scott Genzler, had</p> <p>18 anybody at John Morrell made any racist</p> <p>19 statements to you?</p> <p>20 A. No.</p> <p>21 Q. And after this incident with Scott Genzler, has</p> <p>22 anybody made any racist statements to you?</p> <p>23 A. Nobody.</p> <p>24 Q. <b>How did you decide to go to the National Labor</b></p> <p>25 <b>Relations Board to file a charge?</b></p>



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1 A. Because I -- I -- because I saw they took away my  
2 right. They didn't give me the right that I  
3 deserve so I decided to go ahead and pursue and  
4 to file the charge.

5 Q. What right was taken away from you?

6 A. Because in the book or the rules or regulations  
7 that I -- that I was told that I know, it says  
8 that if somebody discrimin -- discriminate --  
9 discriminated you based on your race or color, he  
10 or her should get punished or disciplined. But  
11 instead of him get disciplined, I'm the one who  
12 was disciplined. That was the reason.

13 Q. Scott did get disciplined, didn't he?

14 A. How -- I don't know if he was disciplined, but  
15 look at it this way: He was disciplined, I was  
16 disciplined. What is this?

17 Q. Okay. And your discipline was removed, right?

18 A. I wanted to know why I was disciplined first.

19 BY MS. CALEM:

20 Q. Okay. Let's just mark this next in order,  
21 please.  
22 (Naambwe Deposition Exhibit 17 marked.)

23 Q. Exhibit 17 is a letter to you that the company  
24 received a copy of from the National Labor  
25 Relations Board.

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1 Now, this is not the EEOC. This is a  
2 different agency. So do you remember filing a  
3 charge with the NLRB, National Labor Relations  
4 Board?

5 A. Yes.

6 Q. Did anybody from the union help you file that  
7 charge?

8 A. I went because the union -- union office, they  
9 have the forms so I went to ask them the form but  
10 the form they give me was the wrong form. They  
11 mistaken and give me wrong form. That is not a  
12 form I wanted.

13 Q. They have the forms. Is that what you're saying?

14 A. Yes. They have the forms, yeah.

15 Q. Okay. So how did you know to file something with  
16 the National Labor Relations Board? Did BJ or  
17 somebody tell you you could do that?

18 A. I -- I --

19 THE WITNESS: (In English) Okay, maybe he --  
20 he don't want to speak. I'm sorry again.  
21 So I understand your question. I just want  
22 to ask. Is because I'm animal, I'm monkey like  
23 how they said so I don't have any knowledge to  
24 know what to do about my right so I have to go to  
25 someone to help me. Even -- even I don't know

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1 much English, we bring children here in America  
2 and they learn everything at school. And when I  
3 came to work, sometime I might be crying, I'm not  
4 going to cook the food for them, I'm not going to  
5 do anything, I just go straight to sleep, to bed  
6 and be quiet, they feel bad and they know  
7 everything, they told me what to do. It's not  
8 like BJ's the one who told me what to do or  
9 somebody else.

10 Q. I'm just asking because I don't think you  
11 understood my question. Usually when somebody  
12 files a charge with the National Labor Relations  
13 Board, the union is involved because that's the  
14 agency that deals with unions.

15 A. (In English without translation of question).  
16 Oh, yeah, because --

17 Q. So that's why I'm asking, did you -- was the  
18 union involved in doing that?

19 A. (In English without translation of question)  
20 Yeah, because I went to union to ask them  
21 the form --

22 Q. Okay.

23 A. -- so I can fill out. So they did mistake it.  
24 They don't have EEOC --

25 Q. Okay.

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1 A. -- so I fill out this one (indicating). So  
2 when I -- when they respond to me, they call me,  
3 we spoke with them on the phone so they said this  
4 case does not belong to us. They say -- they  
5 think maybe I was suing them, so they say if  
6 you -- your case is belong to EEOC so this  
7 company that give me number, EEOC number, so then  
8 I call the EEOC --

9 Q. Got it.

10 A. -- office.

11 Q. That's all I was asking. I just wanted to know  
12 how the procedure worked.

13 A. (In English without translation of question)  
14 Right. That's how it work.

15 MS. CALEM: So let's mark this next, then.  
16 (Naambwe Deposition Exhibit 18 marked.)

17 Q. Okay. So Exhibit 18 is a Charge of  
18 Discrimination, and I think it's the one that you  
19 filed with the EEOC. Do you recognize this?

20 A. Yes, I do.

21 Q. All right. Is that your signature at the bottom?

22 A. Yes.

23 Q. Now, yesterday when we were speaking with Yvette,  
24 she said she talked to the EEOC by phone. Is  
25 that how you communicated with EEOC also?



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<p style="text-align: center;">117</p> <p>1 A. Yeah, because the labor force, the labor board 2 give me the number and so I used that number and 3 I call them, and when I spoke to them, they said 4 they were going to send me a form and I fill out 5 the form to send it back -- back to them the 6 form. 7 Q. Okay. And let's see. After you filled out your 8 form and sent it to them, did they send you this 9 back to sign, Exhibit 18? 10 A. Yes. Exhibit 18 is what I was -- is the form 11 that I received. 12 Q. And you signed it on or around May 23, 2016? 13 A. Yes. 14 Q. Before you signed it, did you read the narrative 15 that's on the form, the paragraphs? 16 A. Yeah, I read it but, you know, English is not my 17 primary language, it's my second language, so 18 there is some that I understood and some that I 19 did not understand. 20 Q. All right. Did you believe as much as you 21 understood did you think was accurate on here? 22 A. For what I understood, it was accurate. 23 Q. Do you remember speaking on the phone to the 24 representative from the EEOC about what had 25 happened, the incident?</p>	<p style="text-align: center;">119</p> <p>1 I've got two. 2 Q. You've got two handbooks? 3 A. (In English without translation of question) 4 Uh-huh. 5 Q. Okay. What years do you have them from? 6 A. 2013 to 2- -- April 27 -- 28, 2013 to April 28, 7 2017. I got that one. I got another one and the 8 month is 2017 to 2021. 9 Q. Okay. I think you may be referring to the union 10 contract. Can you -- I have a little green 11 booklet here, it's called agreement between 12 Smithfield Foods and United Food &amp; Commercial 13 Workers Union Local 304A, and this one is 14 June 5th through May 2, 2021. Can I hand this 15 over to you to look at? 16 A. (In English without translation of question) 17 Sure. 18 Q. I just want to know if that's what you're 19 referring to. 20 A. (In English without translation of question) 21 Yes. 22 Q. Okay. So you definitely received that. And that 23 has the paragraph that we were talking about 24 yesterday about the company will not tolerate 25 discrimination or harassment, correct?</p>
<p style="text-align: center;">118</p> <p>1 A. Yeah, I spoke with them. 2 Q. Do you remember the person saying anything about 3 the fact that because the employer had stopped 4 the behavior, there might not be any claim? 5 A. She never said such a thing. She never suggest 6 that comment. 7 Q. Now, let's look at the complaint. 8 MS. POCHOP: We've got our copy over here. 9 Q. These are exhibits we marked yesterday, and 10 they're the employee handbook and the Smithfield 11 Code of Conduct. I think those are Exhibits 2 12 and 3 from yesterday. Have you seen either of 13 these before? 14 A. This is not like the regular handbook we -- we 15 receive or we get. 16 Q. Is the handbook you get something like this 17 (indicating), a small booklet? 18 THE WITNESS: (Speaking Swahili). 19 THE INTERPRETER: From what year? 20 THE WITNESS: Which year? 21 THE INTERPRETER: Which year? 22 BY MS. CALEM: 23 Q. Any year. I just want to know if you received an 24 employee handbook at any time. 25 A. (In English without translation of question)</p>	<p style="text-align: center;">120</p> <p>1 A. That's what you.... 2 Q. Okay. 3 COURT REPORTER: That's yes? 4 THE INTERPRETER: Yes. Yes. 5 COURT REPORTER: Thank you. 6 Q. And you have two -- two copies of the union 7 contract from two different periods of time? 8 A. Yeah. The one from 2013 to 2017 I was given by 9 John Morrell. 10 Q. Given by who? 11 A. John Morrell. Morrell. 12 Q. John Morrell, okay. Was that something that you 13 received when you first started working at the 14 company? 15 A. Yes. 16 Q. And then more recently you got another version of 17 it. Did you get that from the union? 18 A. (In English without translation of question) 19 Yeah. 20 Q. Okay. I'm going to ask that you give your lawyer 21 the copies that you have so we know what you 22 have. That was part of the document production, 23 okay? 24 MS. POCHOP: Yes, I'm sorry. That is 25 possibly my fault that I should have followed</p>

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<p style="text-align: center;">121</p> <p>1 up --</p> <p>2 MS. CALEM: It's no big deal.</p> <p>3 MS. POCHOP: I just assumed that we were --</p> <p>4 MS. CALEM: No big deal. I know I</p> <p>5 personally was confused about where things came</p> <p>6 from and what booklet was what, so.</p> <p>7 Okay. You can give me that back.</p> <p>8 A. (Complies.)</p> <p>9 Q. This is Scott's copy. He needs it.</p> <p>10 A. (In English without translation of question)</p> <p>11 All right.</p> <p>12 Q. And then there's a separate booklet called</p> <p>13 Employee Handbook. Did you ever get anything</p> <p>14 like this (indicating)? Now, this is, I think a</p> <p>15 more recent version but I'm going hand --</p> <p>16 THE WITNESS: (Indicating.)</p> <p>17 Q. No?</p> <p>18 A. They don't give that to --</p> <p>19 Q. You didn't get anything like this --</p> <p>20 A. (In English without translation of question)</p> <p>21 Never.</p> <p>22 Q. -- this employee handbook?</p> <p>23 A. (In English without translation of question)</p> <p>24 Never.</p> <p>25 Q. Not even when you started work at the company?</p>	<p style="text-align: center;">123</p> <p>1 Yes, they are.</p> <p>2 Q. Exhibit 2 is something that the company writes,</p> <p>3 and the green book you had is something that the</p> <p>4 union contract, that the union and the company</p> <p>5 put together.</p> <p>6 A. Does he mean the company did not follow the green</p> <p>7 book rules or whatever regulations?</p> <p>8 Q. No. I think the company followed all the</p> <p>9 regulations but we're here to determine what</p> <p>10 you've seen. I'm just asking, have you seen</p> <p>11 either Exhibit 2 or 3 before.</p> <p>12 A. No.</p> <p>13 THE INTERPRETER: I'm trying to clarify</p> <p>14 because she is looking at Exhibit 3 but it's</p> <p>15 2 and 3.</p> <p>16 THE WITNESS: (In English) Oh, this and</p> <p>17 this?</p> <p>18 THE INTERPRETER: Yes, this Exhibit 2 and</p> <p>19 Exhibit 3.</p> <p>20 THE WITNESS: Oh, okay. I've never seen</p> <p>21 this before.</p> <p>22 BY MS. CALEM:</p> <p>23 Q. All right. That's fine. Let me give you, then,</p> <p>24 let's mark this next in order.</p> <p>25 (Naambwe Deposition Exhibit 19 marked.)</p>
<p style="text-align: center;">122</p> <p>1 A. (In English without translation of question)</p> <p>2 Never.</p> <p>3 MS. CALEM: Just for the record, I'm holding</p> <p>4 up a -- a small booklet with a black and white</p> <p>5 cover. It says Smithfield, Sioux Falls,</p> <p>6 South Dakota Employee Handbook, and this is Scott</p> <p>7 Reed's copy.</p> <p>8 And if you look at Exhibits 2 and 3, those</p> <p>9 are photocopies of an employee handbook and of</p> <p>10 Smithfield's Code of Conduct? Two different</p> <p>11 things.</p> <p>12 THE WITNESS: Oh.</p> <p>13 (Sotto voce discussion between witness and</p> <p>14 interpreter.)</p> <p>15 THE INTERPRETER: She said in this -- in</p> <p>16 this -- in this compact, whatever, this book,</p> <p>17 Number -- Exhibit Number 2 --</p> <p>18 THE WITNESS: Yes.</p> <p>19 THE INTERPRETER: -- on the page 4 --</p> <p>20 THE WITNESS: No. Yes.</p> <p>21 THE INTERPRETER: Whatever that read on</p> <p>22 page 4 is not on that green book.</p> <p>23 BY MS. CALEM:</p> <p>24 Q. No. They're two different things.</p> <p>25 A. (In English simultaneous to interpretation)</p>	<p style="text-align: center;">124</p> <p>1 Q. Okay. So you've been handed what's been marked</p> <p>2 as Exhibit 19, and if you look at these two</p> <p>3 pages, just tell me if you see your signature on</p> <p>4 there.</p> <p>5 A. Yeah, there is my signature on it.</p> <p>6 Q. Okay. And do you remember seeing any video on</p> <p>7 sexual harassment training when you started at</p> <p>8 the company?</p> <p>9 A. Yes, I do.</p> <p>10 Q. Did you receive any other training from the</p> <p>11 company about sexual harassment?</p> <p>12 A. Yeah, before we started our job, we were in this</p> <p>13 orientation. It took two days. In our</p> <p>14 orientation, we were given and we are told on</p> <p>15 videos and images and with the speaker all we</p> <p>16 were told a lot about -- about sexual harassment</p> <p>17 and we were told if anybody is found guilty of</p> <p>18 any of these should get fired, lose his -- his or</p> <p>19 her employment -- employment.</p> <p>20 Q. Was that the --</p> <p>21 THE INTERPRETER: That was the beginning.</p> <p>22 It took two days, she said.</p> <p>23 BY MS. CALEM:</p> <p>24 Q. Okay. And who said that you would get fired if</p> <p>25 you were found guilty of harassment?</p>



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1 A. Allen.

2 Q. Allen said that?

3 A. Yeah.

4 Q. Okay. Was there anybody else present when you

5 did your orientation?

6 A. There were a lot of us.

7 Q. A lot of people all together?

8 A. (Indicating).

9 Q. Is Allen still with the company?

10 A. I don't know. Since that day I haven't seen

11 again.

12 Q. All right. And after the orientation, did you

13 get any other training about harassment?

14 A. From the time I started it, I didn't see or heard

15 anybody else speaking about it, but after this

16 incident happened, that's when David and this guy

17 came -- came along and they started talking about

18 it.

19 Q. Okay. And if you look at the sheet that's part

20 of Exhibit 19, it says shift assignments at the

21 top. Further down under the part that says

22 acknowledgment, it says that you have received an

23 employee handbook and a copy of the Smithfield

24 Code of Ethics.

25 THE INTERPRETER: Employee?

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1 MS. CALEM: Handbook.

2 A. Is that Smithfield or John -- John Morrell?

3 BY MS. CALEM:

4 Q. I don't know. It says that you -- on the June of

5 2013 when you started work, you got a copy of an

6 employee handbook and the Smithfield Code of

7 Ethics and Professional Conduct. Does that

8 refresh your memory about whether you received

9 those things or not?

10 A. I think it is this blue book that I have. That's

11 what I'm thinking.

12 Q. Okay. You have a blue book at home?

13 A. Yes.

14 Q. So we're going -- we'd like to see that, too,

15 just to see what she -- what it is. It's very

16 important that I know what documents you received

17 from the company just so we have an understanding

18 of what information you got.

19 A. I didn't know you were going to need those books.

20 Q. We're lawyers, we need everything.

21 After your orientation, did you understand

22 how to make a complaint if you had a problem at

23 work?

24 A. (Indicating).

25 THE INTERPRETER: Okay.

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1 BY MS. CALEM:

2 Q. Okay, yeah, yes, you did. You understood you

3 could go to human resources to make the

4 complaint?

5 A. In the orientation, we were told if somebody do

6 that wrong to you, you got to warn -- warn her or

7 him. If she does it again, the same thing, go

8 tell supervisor. And if the supervisor don't do

9 anything about it, go down to HR.

10 Q. Besides the blue book you have at home, is there

11 anything else, any other books or papers the

12 company gave you?

13 A. No.

14 MS. CALEM: Can we go off the record for a

15 minute?

16 MS. POCHOP: Sure.

17 THE VIDEOGRAPHER: Okay. We're going off

18 the record now. It is 12:18.

19 (A lunch recess was taken at this time.)

20 THE VIDEOGRAPHER: Okay. We're back on the

21 record. It is now 1:14 p.m., May 24th, and I

22 will give you a signal to start. Okay.

23 BY MS. CALEM:

24 Q. All right. We're back on the record after our

25 lunch break, and I think the next thing that I'd

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1 like to start talking about is the allegations in

2 the complaint that you were retaliated against

3 after you made a complaint about Scott Genzler.

4 Can you tell me how you were retaliated against?

5 A. I -- after this incident happened, we had a

6 contract [sic] of me and Juan working together.

7 COURT REPORTER: You had a what?

8 THE WITNESS: We had an incident happen

9 between me and Juan.

10 Q. Between you and Juan Ogaldez?

11 A. (In English without translation of question)

12 Yes. And I went to report -- I can say

13 actually I didn't report it to HR direct. I went

14 to Gary because -- do you want me to explain?

15 Q. Yeah, we're going to get to that. I just want,

16 the retaliation is that you were made to work

17 with him again on the same line. Is that what

18 your -- your contention is?

19 A. (In English without translation of question)

20 Yeah, because we're not supposed to work on

21 the same line --

22 Q. Okay.

23 A. -- and the same place, me and him.

24 Q. Okay. So I -- then let's go back and talk about

25 what happened with Juan in 2014. I understand